



# FRAUD & COMPLIANCE FORUM

## Topics include:

- Legal Ethics
- Stark
- Clinical Research
- Auditing and Monitoring
- Internal Investigations
- Fair Market Value
- Healthcare Fraud and the False Claims Act

**September 23–25, 2007**  
**Renaissance Harborplace Hotel**  
**Baltimore, MD**

HealthCare Appraisers, Inc. and PricewaterhouseCoopers  
have provided sponsorship in support of this program

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## Program Mission

The AHLA/HCCA Fraud & 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, the False Claims Act, and the Anti-Kickback Statute. For compliance officers, the conference will cover important issues such as Part D compliance plans, compliance effectiveness, and fraud and abuse. 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 synergistic advances in fraud and abuse compliance make this program an essential educational forum for both health lawyers and compliance officers.

## Program Goals and Objectives

Participants at the AHLA/HCCA Fraud & Compliance Forum will:

- Gain a greater understanding of the full nature of the various regulations governing the delivery of healthcare (Stark, False Claims Act)
- Recognize emerging regulatory trends that will affect legal and compliance practice in healthcare
- Network with peers and learn about the challenges and risk areas faced by a wide variety of healthcare settings (hospitals, academic medical centers, physician practices, long-term care providers, pharmaceutical manufacturers)
- 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

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



# Program Agenda

## SUNDAY, SEPTEMBER 23

1:00 – 5:15 PM

### Registration and Information

2:00 – 3:30 PM

### CONCURRENT SESSIONS

#### I Fraud and Abuse Primer (not repeated)

James G. Sheehan, Esquire, Office of the New York State Medicaid Inspector General

- Fraud and abuse authorities governing referral relationships: Anti-kickback issues, Stark self-referral prohibitions
- Fraud and abuse authorities: Civil False Claims Act, Civil Money Penalties
- OIG exclusion authorities

#### II Provider-Based and Under Arrangements Billing: Compliance Pitfalls

Hugh E. Aaron, MHA, JD, CPC, CPC-H, Senior VP, Compliance and Regulatory Affairs/Regulatory Counsel, HCPro, Inc.

Andrew D. Ruskin, Esquire, Morgan Lewis & Bockius LLP

- Medicare payment implications of choosing to bill as a provider-based entity or “under arrangements”
- Medicare provider-based criteria and “under arrangements” criteria
- Compliance “traps” relating to continued maintenance of provider based status
- Circumstances under which a hospital can bill under the outpatient fee schedule for services rendered in a joint venture partially owned by the hospital
- Coverage limitations applicable to outpatient services
- Differences in the billing requirements for services furnished by provider-based entity or a freestanding entity “under arrangements”

#### III Compliance 101 (not repeated)

Al Josephs, CHC, Senior Director Policies and Training, Tenet Healthcare Corporation

Sheryl Vacca, National Health Care and Life Science Internal Audit Liaison, West Coast Practice Leader Health Care and Regulatory Practice, Deloitte.

- Basic framework for compliance programs
- Seven elements of an effective compliance program
- Techniques for smooth implementation

3:45 – 5:15 PM

### CONCURRENT SESSIONS

#### IV Recent Developments in Stark

Kevin G. McAnaney, Esquire, Law Offices of Kevin McAnaney

Donald Romano, Director of the Division of Technical Payment Policy, Centers for Medicare and Medicaid Services

- Clarifications and changes to Stark regulations implemented by Phase III rulemaking (except for those relating to recruitment and retention, which are covered in a separate session)
- Proposed modifications to Stark regulations contained in the physician fee schedule update
- Implications for compliance and enforcement of changes

#### V Compliance Effectiveness (not repeated)

Kimberly Brandt, Director, Program Integrity Group, Centers for Medicare and Medicaid Services

F. Lisa Murtha, JD, CHC, Managing Director, Huron Consulting Group

Steven W. Ortquist, Esquire, CHC, Meade & Roach, LLP

- Recent government guidance on compliance programs including the OIG Guidance, Guidance from CMS, etc.
- CMS pilot program for assessing the effectiveness of compliance programs
- Recent CIAs and compliance requirements contained therein
- How to do an internal assessment to determine the effectiveness of compliance programs—lessons learned
- Updating your compliance program for 2008 and beyond...

#### VI Compliance 202 (not repeated)

Jennifer O'Brien, Partner, Halleland Lewis Nilan & Johnson

Cheryl Wagonhurst, Esquire, CCEP, Foley & Lardner LLP

- Measuring effectiveness of policies and procedures, education and training, communication, auditing and monitoring, enforcement and discipline, and investigations, response and prevention
- How do the OIG Draft Supplemental Compliance Program Guidance for Hospitals and the OIG-AHLA Board Educational Resource affect compliance program effectiveness?
- An overview of the CMS effectiveness pilot project

5:15 – 6:15 PM

#### Welcome Reception

*Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc.*

Attendees, speakers, and registered companions/guests are welcome

# Program Agenda

## MONDAY, SEPTEMBER 24

7:00 AM – 6:00 PM

### Registration and Information

7:00 – 8:00 AM

### Continental Breakfast

Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc.

Attendees, speakers, and registered companions/guests are welcome

8:00 – 8:15 AM

### GENERAL SESSION

#### Welcome and Introductions

8:15 – 9:00 AM

#### Just Because It's Legal Doesn't Mean It's Ethical

Paul Fiorelli, Director, Williams College of Business Center for Business Ethics and Social Responsibility, Xavier University

- The "Value" of "Values"
- Legal v. ethical duties
- Play "Name that Scandal/Name that Scoundrel"

9:00 – 9:45 AM

#### Keynote Address

Herbert J. Stern, Stern & Kilcullen LLC

9:45 – 10:15 AM

#### Coffee Break

Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc.

10:15 – 11:15 AM

### CONCURRENT SESSIONS 1

#### 101 Proving/Negating Criminal Intent: Perspectives for Healthcare Fraud Prosecutors and Defense Counsel (not repeated)

Robert Brennan, Esquire, Parker Hudson Rainer & Dobbs

James Durham, Esquire, Assistant United States Attorney, Southern District of Georgia

- Prosecution perspective: Investigative techniques to establish criminal intent—finding the badges of fraud
- Defense perspective: Pre-indictment representation of subjects and targets—strategies in dealing with prosecutors and agents
- Prosecution perspective: Convincing a jury of criminal intent—telling a story with documents, demonstrative exhibits, summary and cooperating witnesses
- Defense perspective: Establishing reasonable doubt as to criminal intent—making the client a credible witness, if necessary

#### 102 Executive Compensation for the New Millennium (not repeated)

Gerald M. Griffith, Esquire, Jones Day

- Defining reasonable compensation and defining the competition
- Process protections for board and management
- Working with consultants
- Good governance and the effects on compensation determination and disclosure
- Avoiding potential abuses discovered in the IRS executive compensation initiative

#### 103 Medicaid Fraud Control Units

James G. Sheehan, Esquire, Office of the State of New York Medicaid Inspector General

- Role of State Medicaid Inspectors General
- New York Medicaid enforcement initiatives
- Trends in Medicaid enforcement

#### 104 Aligning Incentives: Building a More Effective Compliance Program (not repeated)

Daniel R. Roach, Esquire, Vice President, Compliance and Audit, Catholic Healthcare West

- This session will focus on improving program effectiveness by:
  - Clearly delineating roles and responsibilities
  - Creating meaningful metrics and dashboards
  - Adopting appropriate incentives
- Various metrics and incentives used in hospitals and systems

#### 105 The Deficit Reduction Act: Recent Developments and Implications for Providers (not repeated)

Brian Flood, Esquire, Managing Director, KPMG Forensics and Advisory Services

Frank Sheeder, JD, CCEP, Jones Day

- Federal initiatives spurred by the DRA
- State legislative and enforcement activities
- Practical considerations and solutions

#### 106 Financial Reporting Primer (not repeated)

Urton Anderson, Professor, McCombs School of Business, The University of Texas at Austin

- The essentials of financial reporting for the non-accountant compliance professional:
  - What are the basic financial reporting requirements for not-for-profit organizations, and public and private companies?
  - Who sets these requirements?
  - What role should the compliance officer have in oversight of these requirements?

# Program Agenda

11:30 AM – 12:30 PM

## CONCURRENT SESSIONS 2

### 201 Institutional Providers and Part D: Recent Enforcement Trends (not repeated)

Margaret Hutchinson, Esquire, Assistant U.S. Attorney, U.S. Attorney's Office Eastern District of Pennsylvania

Harvey M. Tettlebaum, Esquire, Husch & Eppenberger LLC

- Part D problems in hospitals and long-term care facilities
- The Government's enforcement priorities for hospitals, long-term care facilities and long term care pharmacies
- The lurking Part D kickback: Where it hides in hospitals, long-term care facilities, PDPs, and manufacturers
- Qui tam vulnerabilities in Part D for hospitals, long-term care facilities, and their pharmaceutical suppliers
- Part D and pharmacy related cases: Are there any?

### 202 Corporate Responsibility and Healthcare Quality: A Resource for Healthcare Boards of Directors

Douglas A. Hastings, Esquire, Epstein Becker & Green PC

Lewis Morris, Esquire, Chief Counsel to the Inspector General, Office of Inspector General, U.S. Department of Health and Human Services

- The Board's fiduciary duties in the healthcare setting
- The board's role in promoting quality of care
- Government enforcement of quality standards

### 203 Federal and State Administrative Sanctions

Nancy Brown, Associate Counsel, Office of Counsel to the Inspector General, U.S. Department of Health and Human Services

Gabriel L. Imperato, Esquire, Broad & Cassel

- Carrier and intermediary sanctions, including pre-payment review, focused medical review, suspension of payment and referral for civil penalty and/or criminal fraud and abuse liability
- Recent amendments to federal sanction authority under the Health Insurance Portability and Accountability Act ("HIPAA") of 1996 and the Balanced Budget Act of 1997
- Mandatory and permissive exclusion under the Medicare program and termination under state Medicaid programs and parallel administrative and civil liability and how it relates to federal and state criminal and civil healthcare fraud enforcement actions
- Coordination between federal and state authorities involving exclusion and sanction actions and the ramifications for private third-party payors

### 204 Accounting & Fraud (not repeated)

Urton Anderson, Professor, McCombs School of Business, The University of Texas at Austin

- Fraud in the financial reporting of healthcare organizations:
  - Types
  - Risk factors
  - Trends
  - Prevention

### 205 Understanding Fraud in the Managed Care Environment (not repeated)

Dawn D. Rock, JD, CHC, CCEP, Director of Corporate Compliance, Johns Hopkins HealthCare LLC

Frank Sheeder, JD, CCEP, Jones Day

- Potential fraud and abuse issues in managed care plans
- Key statutes and rules to consider
- Practical tips

### 206 Ethical Quiz Bowl: How to Keep Our Companies out of Jeopardy (not repeated)

Paul Fiorelli, Director, Williams College of Business Center for Business Ethics and Social Responsibility, Xavier University

- Law and ethics training can be both enjoyable and effective
- New techniques to energize your training

12:30 – 1:50 PM

### Lunch on your own, or attend AHLA's Fraud and Abuse, Self-Referrals, and False Claims Practice Group Lunch

*Sponsored by HealthCare Appraisers, Inc.*

(Additional fee and limited attendance; pre-registration required: see page 15)

### Valuations: Practical and Compliance Challenges

- Top 10 hot topics, practical challenges, and controversial issues in addressing fair market value in the context of healthcare contracts or transactions

2:00 – 3:00 PM

## CONCURRENT SESSIONS 3

### 301 Hot Topics in Life Sciences Law (not repeated)

Elizabeth Carder-Thompson, Esquire, Reed Smith LLP

- The evolving world of physician consulting relationships—risks, parameters, safeguards
- The "off-label" investigations continue—update on recent cases and new theories of liability
- Mandatory self-reporting and other new CMS measures targeting Part D fraud and misconduct
- State law initiatives dogging drug and device entities

### 302 Legal Ethics: Spilling the Beans—Protecting Yourself, Your Client and the Attorney-Client Privilege during an Investigation

Philip L. Pomerance, Esquire, Kamensky Rubinstein Hochman & Delott LLP

- Attorney-client privilege, the right of an employer/corporation to provide financial support to individuals under investigation and the lawyer's duty to disclose certain conduct
- Current state of cooperation with investigators, including changes to Federal procedure and sentencing guidelines
- When must a lawyer disclose client conduct, and when must a lawyer keep silent?

# Program Agenda

## 303 Medicaid Fraud Control Units (repeat of 103)

### 304 CMS Data Mining Initiatives: Implications for Compliance Programs (not repeated)

Janice A. Anderson, Esquire, Foley & Lardner LLP

Douglas Nock, Centers for Medicare and Medicaid Services

- The various sources of data available to CMS in connection with the Medicare program
- How CMS uses data in its efforts to uncover Medicare program/benefit vulnerabilities integrity
- How programs like Comprehensive Error Rate Testing (Medicare) and Payment Error Rate Measurement can benefit hospitals in strengthening in-house compliance programs and gaining a competitive edge under Pay for Performance
- Compliance and enforcement implications associated with CMS's use of data

## 305 Recovery Audit Contractors

Connie Leonard, MPA, PMP, Centers for Medicare and Medicaid Services

Melanie Combs, RN, Centers for Medicare and Medicaid Services

Marie A. Casey, RN, BSN, MPH, RAC Project Officer, Centers for Medicare and Medicaid Services

- Why does Medicare need a RAC Program?
- What billing mistakes have the RACs been finding?
- When will a RAC be coming to my state?

## 306 Operational Impact of Medicare Part D (not repeated)

Sonya Castro, Pharmacy Compliance Officer, Wal-Mart Stores Inc

Stephanie Kaisler, Deputy Director, Division of MMA Integrity, Centers for Medicare and Medicaid Services

- Part D Program Integrity Initiatives
- Provider impact of Part D enforcement
- Current trends in FWA in Part D

3:15 – 4:45 PM

## CONCURRENT SESSIONS 4

### 401 Recent Developments in Stark (repeat of IV)

### 402 Fraud and Abuse Issues in Joint Ventures

S.Craig Holden, Esquire, Ober Kaler Grimes & Shriver

Martha J. Talley, JD, Senior Counsel, Office of Counsel to the Inspector General, U.S. Department of Health and Human Services

- Impact of the Phase III Stark regulations on “under arrangements” and other physician joint ventures
- Anti-kickback issues in the formation and operation of joint ventures
- Potential reimbursement issues in “under arrangements” and other joint ventures
- Current enforcement efforts

### 403 Compliance Risk and Key Legal Issues for Providers Engaged in Clinical Research

Jeffrey D. Kahn, VP for Compliance & Privacy, Children's Hospital of Philadelphia

Patricia T. Meador, Esquire, Kennedy Covington Lobdell & Hickman LLP

Beth Schermer, Esquire, Coppersmith Gordon Schermer & Brockelman PLC

- Common interfaces in clinical research: Provider to provider, vendor/sponsor to provider
- Compliance risks and fraud and abuse issues that arise when conducting clinical research
- Enforcement activities: Recent cases, judgments and settlements
- Practical guidance: Checklist for entering into research activities and relationships, sample scenarios to aid in spotting and resolving issues

### 404 Implementing an Electronic Medical Record: Regulatory and Legal Risks (not repeated)

Beth DeLair, RN, JD, Meade & Roach

Georgette Gustin, CPC, CCS-P, CHC, Director, Healthcare Industries, PricewaterhouseCoopers

This session will highlight some of the regulatory and legal risks associated with implementing an EMR such as:

- Privacy and security issues
- Billing, coding and documentation pitfalls
- Practical and operational challenges

### 405 Governance (not repeated)

David B. Orbuch, President, Phillips Eye Institute

Daniel R. Roach, Esquire, Vice President, Compliance and Audit, Catholic Healthcare West

Thomas S. Schroeder, Esquire, Faegre & Benson LLP

- Why healthcare boards are taking heat from Congress, the IRS and everyone else
- SOX and the non-profit—it applies more than you think
- IRS “Good Governance” and proposed 990 changes
- Can Mickey Mouse protect your board from individual liability?

### 406 Administration Initiatives in Compliance and Fraud Prevention (not repeated)

Thomas R. Barker, Senior Counselor for Health Policy to the Secretary of Health and Human Services, U.S. Department of Health and Human Services

- Secretary Leavitt's priorities in fighting fraud
- Secretary Leavitt's priorities in promoting compliance
- Analysis of recent success in protecting the Medicare program's integrity
- What the healthcare community can expect for the next twelve months

# Program Agenda

5:00 – 6:00 PM

## CONCURRENT SESSIONS 5

### 501 Got Incentives?: Latest Hospital and Payor P4P Initiatives (not repeated)

Timothy J. Conan, Esquire, Costello Cooney & Fearon PLLC

Mark R. Fitzgerald, Esquire, Powers Pyles Sutter & Verville PC

- Requirements and goals of the DRA 5007 Medicare Demonstration Project
- Collaborations between hospitals, commercial health plans and medical staffs
- Hospital strategies for aligning physician financial incentives with quality care
- Identifying appropriate performance measures that won't violate the law

### 502 Discounts: What's Legal, What's Not

Thomas S. Crane, Esquire, Mintz Levin Cohn Ferris

Glovsky & Popeo PC

- Distinction between discounts covered under the discount exception and safe harbor
- What does it mean for a discount to be “properly disclosed and appropriately reflected”
- Operation Headwaters—Novartis, Abbott Labs and McKesson settlements and CIA requirements; and *US v. Carroll and Deny*
- *Klaczak v. Consolidated Medical Transport*—decision dealing with discount swapping issues

### 503 Corporate Responsibility and Healthcare Quality: A Resource for Healthcare Boards of Directors

(repeat of 202)

### 504 How Compliance Intersects with Medical Staff Issues: Credentialing (not repeated)

Cynthia E. Boyd, MD, MBA, Associate Vice President & Chief Compliance Officer, Rush University Medical Center

The credentialing process is the first and most crucial step an organization takes in assuring that physicians meet required standards and are qualified to treat patients and participate in clinical activities. This process is integral to an organization's accreditation process, its compliance with regulatory requirements, the medical staff bylaws, and managed care agreements/contracts. This session will discuss:

- The importance and fundamental issues of the credentialing process
- The top 5 ways compliance and medical staff issues intersect
- The regulatory and social importance of credentialing

### 505 Physician Contracting (not repeated)

Betsy Aderholdt, Genesys

Brett Hickman, PricewaterhouseCoopers

- Sustainable models and approaches to hospital physician alignment
- Prepare for the future of a quality- and outcomes-driven payer and delivery model
- Ensure your compliance and manage your risk with proven models for success

### 506 Repayments and Disclosures: A Reality Check around the Significant, Complex, and Sometimes Overlooked Rules that Apply when Medicare and Medicaid Overpayments Occur

Jennifer O'Brien, Partner, Halleland Lewis Nilan & Johnson

Robert L. Roth, Esquire, Crowell & Moring LLP

- Claims and payment finality under Medicare and Medicaid
- Government right of recovery, waiver of recovery, and imposition of interest
- Practical considerations around disclosure and refund obligations
- Lessons learned under fire

6:00 – 7:00 PM

### Reception

Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc.

Attendees, speakers, and registered companions/guests are welcome

## TUESDAY, SEPTEMBER 25

7:00 AM – 3:45 PM

### Registration and Information

7:00 – 8:00 AM

### Continental Breakfast

Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc.

Attendees, speakers, and registered companions/guests are welcome

8:00 – 8:45 AM

### GENERAL SESSION

#### Keynote Address

R. Alexander Acosta, Esquire, U.S. Attorney, U.S. Attorney's Office for the Southern District of Florida

8:45 – 9:15 AM

#### Coffee Break

Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc.

# Program Agenda

9:15 – 10:15 AM

## CONCURRENT SESSIONS 1

### 601 Hot Topics in False Claims Act Litigation (not repeated)

Patric Hooper, Esquire, Hooper Lundy & Bookman, Inc.

Robert McAuliffe, Esquire, Trial Attorney, U.S. Department of Justice Civil Division

- Elements of a reverse false claim
- Materiality issues
- Standards for determining falseness and wrongful intent
- Damages causation questions
- Constitutional limits on damages awards

### 602 The Use of Deferred Prosecution Agreements in Healthcare Fraud Compliance

Paul W. Shaw, Esquire, Brown Rudnick Berlack Israels

Lisa D. Taylor, Esquire, Stern & Kilcullen

- Basis for a Deferred Prosecution Agreement
- Elements of a Deferred Prosecution Agreement
- How a Deferred Prosecution Agreement differs from a Corporate Integrity Agreement
- Examples of mandates required by a Deferred Prosecution Agreement
- Living under a Deferred Prosecution Agreement

### 603 Recruitment and Retention in a Phase III World

Julie E. Kass, Esquire, Ober Kaler Grimes & Shriver

Lisa M. Ohrin, JD, Deputy Director, Division of Technical Payment Policy, Centers for Medicare and Medicaid Services

- Phase III modifications and clarifications to the physician recruitment and retention payments exceptions in §411.357(e) and (t), respectively
- Geographic service area issues
- Physicians “without a practice”
- Allocating costs under an income guarantee
- Recruitment agreements: provisions and default

### 604 Conflicts of Interest (not repeated)

Rory Jaffe, MD, CHC, MBA, Executive Director–Medical Services, University of California

- Analyzing a potential conflict
- Financial and non-financial conflicts
- Steps to developing bright-line rules

### 605 Clinical Trials Rule Update (not repeated)

Cynthia E. Boyd, MD, MBA, Associate Vice President & Chief Compliance Officer, Rush University Medical Center

Ryan D. Meade, Esquire, Meade & Roach LLP

### 606 Prozac, Pens, and Pizza: The Growing Debate over Vendor Relationships (not repeated)

Barry Alexander, Esquire, Partner, Nelson Mullins Riley & Scarborough LLP

Robert A. Pelaia, Esquire, CPC, Senior Associate General Counsel for Health Affairs–Jacksonville, University of Florida

- Ethical and conflict of interest issues associated with relationships between physicians and pharmaceutical companies, medical device manufacturers and other vendors
- Potential legal implications of common industry practices
- Industry-proposed policies and legislative initiatives
- Impact of recent developments in the “Pharm-Free” movement
- Compliance planning considerations associated with vendor relationships

10:30 AM – 12:00 NOON

## CONCURRENT SESSIONS 2

### 701 Compliance Risk and Key Legal Issues for Providers Engaged in Clinical Research (repeat of 403)

### 702 Fraud and Abuse Issues in Joint Ventures (repeat of 402)

### 703 Provider-Based and Under Arrangements Billing: Compliance Pitfalls (repeat of II)

### 704 Auditing & Monitoring (not repeated)

John C. Falcetano, CHC, CIA, Chief Audit/Compliance Officer, University Health Systems of Eastern Carolina

An ongoing auditing and monitoring process is critical to the success of the compliance program. Compliance officers need to be able to use audit and monitoring techniques in order to assist in the reduction of problem areas. In this session participants will learn the basics of auditing and monitoring process including:

- Preliminary review
- Fieldwork
- Reporting audit results
- Audit follow-up
- Monitoring techniques

### 705 Building a Medicaid Compliance Program (not repeated)

Robb Miller, Director of Field Operations, Medicaid Integrity Group, Centers for Medicare and Medicaid Services

Steven W. Ortquist, Esquire, CHC, Meade & Roach, LLP

- Through the Medicaid Integrity Program, CMS has developed its first national strategy to deal with Medicaid fraud and abuse
- The MIP provides significant new resources to both conduct audits of Medicaid providers and to provide effective support and assistance to States to combat provider fraud and abuse
- These increased resources should not alarm providers who already have effective, reasonable compliance programs

# Program Agenda

## 706 Risk Assessment (not repeated)

Anne E. Doyle, MBA, Senior VP/Chief Compliance Officer, Fallon Community Health Plan

Rory Jaffe, MD, CHC, MBA, Executive Director—Medical Services, University of California

- Creative ways to identify compliance and business risks
- Benefits to the organization of enterprise wide risk management done simply
- Organizational barriers and solutions for implementing enterprise-wide risk management

12:00 NOON – 1:20 PM

## Lunch on your own or HCCA Membership Luncheon

*Presentation by HealthCare Appraisers, Inc.*

(Additional fee and limited attendance; pre-registration required: see page 15)

## Valuations: Practical and Compliance Challenges

- Top 10 hot topics, practical challenges, and controversial issues in addressing fair market value in the context of healthcare contracts or transactions

1:30 – 2:30 PM

## CONCURRENT SESSIONS 3

### 801 Legal Ethics: Spilling the Beans—Protecting Yourself, Your Client and the Attorney–Client Privilege during an Investigation (repeat of 302)

### 802 Recruitment and Retention in a Phase III World (repeat of 603)

### 803 Repayments and Disclosures: A Reality Check around the Significant, Complex, and Sometimes Overlooked Rules that Apply when Medicare and Medicaid Overpayments Occur (repeat of 506)

### 804 Privacy: It's Not Just a HIPAA Issue (not repeated)

Marti Arvin, JD, CHC, CPC, CCEP, Privacy Officer, University of Louisville

- The impact of state and possibly federal breach notification laws on an organizations privacy and security compliance
- HIPAA—the new standard for negligence in law suits over privacy compromises
- Enforcement—what is the government doing and how might it impact your organization

### 805 Compliance ROI (not repeated)

Kathleen B. Merlo, Director of Compliance, St Louis University

- How effective compliance programs increase productivity and revenue
- The fine art of “earning your keep and keeping your earnings”
- Ways a robust compliance program improves the organization's ROI

## 806 Arrangements Data Bases: Do CIAs and Mandatory Stark Reporting Make Them a “Best Practice”? (not repeated)

Edwin Rauzi, Esquire, Davis Wright Tremaine LLP

John E. Steiner, Jr., Esquire, Chief Compliance Officer, University of Kentucky

- The newest member of the CIA family
- Mandatory Stark Reporting under 42 CFR 411.361
- Documenting compliance so that your constituents—Board, regulators and employees—can understand and follow

2:45 – 3:45 PM

## CONCURRENT SESSIONS 4

### 901 Discounts: What's Legal, What's Not (repeat of 502)

### 902 The Use of Deferred Prosecution Agreements in Healthcare Fraud Compliance (repeat of 602)

### 903 Federal and State Administrative Sanctions (repeat of 203)

### 904 False Claims Act from a Compliance Perspective (not repeated)

Sean McKenna, Esquire, Assistant U.S. Attorney, Northern District of Texas

Whitney Schmidt, Assistant U.S. Attorney

- An overview of the False Claims Act
- Application of the FCA to the healthcare industry: a case study
- The benefits of proactive compliance efforts in responding to a government investigation

### 905 How to Conduct an Internal Investigation and Not Screw Up (not repeated)

Michael A. Morse, Esquire, Miller Alfano & Raspanti

Robert A. Wade, Esquire, Baker & Daniels LLP

- Recent developments in conducting and managing internal and external investigations, including waiver of attorney-client privilege
- Ten ways to screw up an internal investigation
- Ethical issues in conducting and managing internal and external investigations

### 906 Tried and True Tips for Determining the Truth (not repeated)

MODERATOR: Cheryl Wagonhurst, Esquire, CCEP, Foley & Lardner, LLP

John D. Gilleland, Esquire, Senior Trial Consultant, TrialGraphix

T. V. O'Malley, President, American Polygraph Association

- Permissible uses of polygraph testing in the healthcare industry
- Employee Polygraph Protection Act (EPPA) do's and don'ts
- A few things every employer must know about polygraph testing

3:45 PM

## Adjournment

# Program at a Glance

## Sunday, September 23, 2007

<b>1:00 – 5:15 PM</b>	Registration and Information		
<b>2:00 – 3:30 PM</b>	LEGAL FOCUSED		COMPLIANCE FOCUSED
	I Fraud and Abuse Primer (not repeated) Sheehan	II Provider-Based and Under Arrangements Billing: Compliance Pitfalls Aaron, Ruskin	III Compliance 101 (not repeated) Josephs, Vacca
<b>3:45 – 5:15 PM</b>	LEGAL FOCUSED	COMPLIANCE FOCUSED	
	IV Recent Developments in Stark McAnaney, Romano	V Compliance Effectiveness (not repeated) Brandt, Murtha, Ortquist	VI Compliance 202 (not repeated) O'Brien, Wagonhurst
<b>5:15 – 6:15 PM</b>	Welcome Reception Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc. Attendees, speakers, and registered companions/guests are welcome		

## Monday, September 24, 2007

<b>7:00 AM – 6:00 PM</b>	Registration and Information					
<b>7:00 – 8:00 AM</b>	Continental Breakfast Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc. Attendees, speakers, and registered companions/guests are welcome					
<b>8:00 – 9:45 AM</b>	General Session					
<b>8:00 – 8:15 AM</b>	Welcome and Introductions					
<b>8:15 – 9:00 AM</b>	Just Because It's Legal Doesn't Mean It's Ethical Fiorelli					
<b>9:00 – 9:45 AM</b>	Keynote Address Stern					
<b>9:00 – 9:45 AM</b>	Coffee Break Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc.					
<b>10:15 – 11:15 AM</b>	LEGAL FOCUSED			COMPLIANCE FOCUSED		
	101 Proving/Negating Criminal Intent (not repeated) Brennan, Durham	102 Executive Compensation for the New Millennium (not repeated) Griffith	103 Medicaid Fraud Control Units Sheehan	104 Aligning Incentives: Building a More Effective Compliance Program (not repeated) Roach	105 The Deficit Reduction Act: Recent Developments and Implications for Providers (not repeated) Flood, Sheeder	106 Financial Reporting Primer (not repeated) Anderson
<b>CONCURRENT SESSIONS 1</b>						
<b>11:30 AM – 12:30 PM</b>	201 Institutional Providers and Part D (not repeated) Hutchinson, Tettlebaum	202 Corporate Responsibility and Healthcare Quality Hastings, Morris	203 Federal and State Administrative Sanctions Brown, Imperato	204 Accounting & Fraud (not repeated) Anderson	205 Understanding Fraud in the Managed Care Environment (not repeated) Rock, Sheeder	206 Ethical Quiz Bowl: How to Keep Our Companies out of Jeopardy (not repeated) Fiorelli
	<b>CONCURRENT SESSIONS 2</b>					
<b>12:30 – 1:50 PM</b>	Lunch on your own, or attend AHLA's Fraud and Abuse, Self-Referrals, and False Claims Practice Group Lunch Sponsored by HealthCare Appraisers, Inc. (additional fee and limited attendance; pre-registration required: see page 15)					
<b>2:00 – 3:00 PM</b>	LEGAL FOCUSED			COMPLIANCE FOCUSED		
	301 Hot Topics in Life Sciences Law (not repeated) Carder-Thompson	302 Legal Ethics: Spilling the Beans—Protecting Yourself, Your Client and the Attorney-Client Privilege during an Investigation Pomerance	303 Medicaid Fraud Control Units (repeat of 103) Sheehan	304 CMS Data Mining Initiatives: Implications for Compliance Programs (not repeated) Anderson, Nock	305 Recovery Audit Contractors Casey, Combs, Leonard	306 Operational Impact of Medicare Part D (not repeated) Castro, Kaisler
<b>CONCURRENT SESSIONS 3</b>						
<b>3:15 – 4:45 PM</b>	401 Recent Developments in Stark (repeat of IV) McAnaney, Romano	402 Fraud and Abuse Issues in Joint Ventures Holden, Talley	403 Compliance Risk and Key Legal Issues for Providers Engaged in Clinical Research Kahn, Meador, Schemer	404 Implementing an Electronic Medical Record: Regulatory & Legal Risks (not repeated) DeLair, Gustin	405 Governance (not repeated) Orbuch, Roach, Schroeder	406 Administration Initiatives in Compliance and Fraud Prevention (not repeated) Barker
	<b>CONCURRENT SESSIONS 4</b>					
<b>5:00 – 6:00 PM</b>	501 Got Incentives?: Latest Hospital and Payor P4P Initiatives (not repeated) Conan, Fitzgerald	502 Discounts: What's Legal, What's Not Crane	503 Corporate Responsibility and Healthcare Quality (repeat of 202) Hastings, Morris	504 How Compliance Intersects with Medical Staff Issues: Credentialing (not repeated) Boyd	505 Physician Contracting (not repeated) Aderholdt, Hickman	506 Repayments and Disclosures O'Brien, Roth
	<b>CONCURRENT SESSIONS 5</b>					
<b>6:00 – 7:00 PM</b>	Reception Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc. Attendees, speakers, and registered companions/guests are welcome					

# Program at a Glance

**Tuesday, September 25, 2007**

<b>7:00 AM – 3:45 PM</b>	Registration and Information					
<b>7:00 – 8:00 AM</b>	Continental Breakfast Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc. Attendees, speakers, and registered companions/ guests are welcome					
<b>8:00 – 8:45 AM</b>	Keynote Address Acosta					
<b>8:45 – 9:15 AM</b>	Coffee Break Sponsored by PricewaterhouseCoopers and HealthCare Appraisers, Inc.					
<b>9:15 – 10:15 AM</b>  <b>CONCURRENT SESSIONS 1</b>	LEGAL FOCUSED			COMPLIANCE FOCUSED		
	601 Hot Topics in False Claims Act Litigation (not repeated) Hooper, McAuliffe	602 The Use of Deferred Prosecution Agreements in Healthcare Fraud Compliance Shaw, Taylor	603 Recruitment and Retention in a Phase III World Kass, Ohrin	604 Conflicts of Interest (not repeated) Jaffe	605 Clinical Trials Rule Update (not repeated) Boyd, Meade	606 Vendor Relationships (not repeated) Alexander, Pelaia
<b>10:30 AM – 12:00 NOON</b>  <b>CONCURRENT SESSIONS 2</b>	LEGAL FOCUSED			COMPLIANCE FOCUSED		
	701 Compliance Risk and Key Legal Issues for Providers Engaged in Clinical Research (repeat of 403) Kahn, Meador, Schermer	702 Fraud and Abuse Issues in Joint Ventures (repeat of 402) Holden, Talley	703 Provider-Based and Under Arrangements Billing: Compliance Pitfalls (repeat of II) Aaron, Ruskin	704 Auditing & Monitoring (not repeated) Falcetano	705 Building a Medicaid Compliance Program (not repeated) Miller, Ortquist	706 Risk Assessment (not repeated) Doyle, Jaffe
<b>12:00 NOON – 1:20 PM</b>	Lunch on your own or HCCA Membership Luncheon Presentation by HealthCare Appraisers, Inc. (additional fee and limited attendance; pre-registration required: see page 15)					
<b>1:30 – 2:30 PM</b>  <b>CONCURRENT SESSIONS 3</b>	LEGAL FOCUSED			COMPLIANCE FOCUSED		
	801 Legal Ethics: Spilling the Beans—Protecting Yourself, Your Client and the Attorney-Client Privilege During an Investigation (repeat of 302) Pomerance	802 Recruitment and Retention in a Phase III World (repeat of 603) Kass, Ohrin	803 Repayments and Disclosures: (repeat of 506) O'Brien, Roth	804 Privacy: It's Not Just a HIPAA Issue (not repeated) Arvin	805 Compliance ROI (not repeated) Merlo	806 Arrangements Data Bases: Do CIAs and Mandatory Stark Reporting Make Them a "Best Practice"? (not repeated) Rauzi, Steiner
<b>2:45 – 3:45 PM</b>  <b>CONCURRENT SESSIONS 4</b>	LEGAL FOCUSED			COMPLIANCE FOCUSED		
	901 Discounts: What's Legal, What's Not (repeat of 502) Crane	902 The Use of Deferred Prosecution Agreements in Healthcare Fraud Compliance (repeat of 602) Shaw, Taylor	903 Federal and State Administrative Sanctions (repeat of 203) Brown, Imperato	904 False Claims Act from a Compliance Perspective (not repeated) Schmidt, McKenna	905 How to Conduct an Internal Investigation and Not Screw Up (not repeated) Morse, Wade	906 Tried and True Tips for Determining the Truth (not repeated) Wagonhurst (moderator), Gilleland, O'Malley



# Speakers

## PLANNING COMMITTEE

### **Kimberly Brandt**

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Health Care and Regulatory Practice  
Deloitte.

**Robert A. Wade, Esquire**

Baker & Daniels LLP

**Cheryl Wagonhurst, Esquire, CCEP**

Foley & Lardner LLP

## CHC Examination Information

HCCB is offering the HCCB Certification Exam on-site on Wednesday, September 26, 2007, from 9:00–11:00 AM at Renaissance Harborplace Hotel. To sit for the exam you will need 20 HCCB CEUs.

**Cost:** \$250 HCCA members / \$350 non-members

**To Register:** Click on the HCCB Fraud & Compliance Special Application link on the HCCA Web site: [www.hcca-info.org](http://www.hcca-info.org). Submit the application and fee to the testing agency by the deadline of Friday, August 31, 2007.

**Questions:** Contact the HCCB at [hccb@hcca-info.org](mailto:hccb@hcca-info.org) or call the HCCA office at 888-580-8373.



# Program Information

**Dates:** September 23-25, 2007

**Place:** Renaissance Harborplace Hotel  
202 East Pratt Street  
Baltimore, MD 21202

**Phone:** 410-547-1200

**Toll-Free Reservations:** 800-468-3571

## Registration Fees:

*Postmarked and paid by September 5, 2007*

AHLA/HCCA Members:	\$820
AHLA/HCCA Member Group:	\$745*
Non-Members:	\$1,020

*Postmarked and paid between September 6 and September 21, 2007*

AHLA/HCCA Members:	\$920
AHLA/HCCA Member Group:	\$845*
Non-Member:	\$1,120

\*When an AHLA or HCCA member registers for this program, each additional AHLA or HCCA member registered from his/her organization at the same time is eligible for a discounted registration fee.

Pre-registration accepted through September 21, 2007. 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, AHLA/HCCA will charge the correct amount to the credit card you have supplied.

**Discounted Registration Fees:** Government employees, academicians and students, please call for discounted registration fees.

**Companion 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 at attend these events at no additional charges.

**Hotel Reservations:** Hotel accommodations are not included in the registration fee. Call the Renaissance Harborplace Hotel 410-547-1200. To be eligible for the group rate, reservations must be received by Wednesday, September 5, 2007. 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 Friday, September 14. 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.

**Airline Reservations:** AHLA and HCCA have selected Association Travel Concepts (ATC) as the official event travel agency.

**Airline Discounts:** Up to 15% off applicable classes of service for tickets purchased more than 30 days prior to the meeting. Restrictions apply. (United). Up to 5% off applicable classes of service for tickets purchased prior to the meeting. (American Airlines). ATC will also search for the lowest available fare on ANY airline. Direct access to ATC online booking tools and live agents for discounted meeting travel. Go to [www.atcmeetings.com](http://www.atcmeetings.com) and click on MEETINGS to Air – Meetings and Leisure (TravelASP). When you register using the online booking tool please enter AHLA in the Company or Organization or Association field.

**Car Discounts:** Discounted meeting rates (Avis & Enterprise).

**Reservations:** Make your reservation from one of the following options:

- Web: [www.atcmeetings.com](http://www.atcmeetings.com)
- Email: [reservations@atcmeetings.com](mailto:reservations@atcmeetings.com)
- Fax: 858-362-3153

ATC is available for reservations from 8:30 AM until 8:00 PM Eastern Time, Monday through Friday. Some restrictions may apply. Service fees apply.

**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.

**AHLA Membership:** Non-members wishing to join AHLA for one full year can do so by adding \$200 to the member registration fee. Members receive monthly mailings and discounts on AHLA publications and programs.

**HCCA Membership:** Non-members wishing to join HCCA for one full year can do so by adding \$200 to the member conference registration fee. Members receive monthly mailings and discounts on HCCA publications and programs.

## Continuing Education Credits

**MCLE/CLE:** Participants will be given continuing education request forms at the program. Forms must be completed and returned to AHLA/HCCA 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 15.25 continuing legal education credits based on a 60-minute hour and 18.3 credits based on a 50-minute hour. There is one hour of legal ethics.

**NASBA/CPE:** AHLA 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 registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417. A maximum of 18.0 credits based on a 50-minute hour will be granted. Recommended experience level for this course is intermediate to advanced. No prerequisites or advance requirements exist for this activity. This is a group live activity. For more information regarding administrative policies such as complaint or refund, call the HCCA at 888-580-8373.

**ACHE:** Medical Education Collaborative (MEC) is authorized to award 14.0 hours of pre-approved Category II (non-ACHE) continuing education credit for this program toward advancement or recertification 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 recertification in ACHE.

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

**HCCB:** This program has been approved for 17.1 HCCB continuing education credits for compliance certification.

**CCEP:** A maximum of 17.1 CCEP CEUs may be earned for compliance certification.

## Fraud & Compliance Forum 2007

Remit payment and completed registration form by mail to:

American Health Lawyers Association, P.O. Box 79340, Baltimore, MD 21279-0340

You may also fax with credit card information to 202-775-2482, or register via phone by calling 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: \_\_\_\_\_ AHLA/HCCA ID #: \_\_\_\_\_

First Name for Badge (if different than above): \_\_\_\_\_

Title: \_\_\_\_\_ Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP+ 4: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Companion Name: \_\_\_\_\_

### Early Registration Fees (faxed/postmarked and paid on or before September 5, 2007)

AHLA or HCCA Members:  \$820 Non-Members:  \$1,020

Additional Members\*:  \$745

### Registration Fees (faxed/postmarked and paid between September 6 and 21, 2007)

AHLA or HCCA Members:  \$920 Non-Members:  \$1,120

Additional Members\*:  \$845

*\*Concurrent registrations by same organization/firm at the same time.*

*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 14, 2007.*

CODE: AHLA07 1

### Payment Information

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

\$ _____ Registration Fee	\$ _____ AHLA Membership Dues (\$200 when paying member registration fee, new members only)
\$ _____ Companion Fee (\$30)	\$ _____ HCCA Membership Dues (\$200 when paying member registration fee, new members only)
\$ _____ AHLA Fraud and Abuse Practice Group Lunch on Monday, September 24 (\$38 members of the Fraud and Abuse Practice Group; \$45 non-members of Fraud and Abuse Practice Group)	\$ _____ HCCA membership meeting and luncheon on Tuesday, September 25 (\$30 HCCA members, \$35 non-members)
\$ _____ 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: \_\_\_\_\_

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

Sunday, September 23	Monday, September 24	Tuesday, September 25
2:00 – 3:30 PM <input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III	10:15 – 11:15 AM <input type="checkbox"/> 101 <input type="checkbox"/> 102 <input type="checkbox"/> 103 <input type="checkbox"/> 104 <input type="checkbox"/> 105 <input type="checkbox"/> 106	9:15 – 10:15 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
3:45 – 5:15 PM <input type="checkbox"/> IV <input type="checkbox"/> V <input type="checkbox"/> VI	11:30 AM – 12:30 PM <input type="checkbox"/> 201 <input type="checkbox"/> 202 <input type="checkbox"/> 203 <input type="checkbox"/> 204 <input type="checkbox"/> 205 <input type="checkbox"/> 206	10:30 AM – 12:00 PM <input type="checkbox"/> 701 <input type="checkbox"/> 702 <input type="checkbox"/> 703 <input type="checkbox"/> 704 <input type="checkbox"/> 705 <input type="checkbox"/> 706
<i>This information will be used in planning. You will not be obligated to attend the sessions you select.</i>	2:00 – 3:00 PM <input type="checkbox"/> 301 <input type="checkbox"/> 302 <input type="checkbox"/> 303 <input type="checkbox"/> 304 <input type="checkbox"/> 305 <input type="checkbox"/> 306	1:30 – 2:30 PM <input type="checkbox"/> 801 <input type="checkbox"/> 802 <input type="checkbox"/> 803 <input type="checkbox"/> 804 <input type="checkbox"/> 805 <input type="checkbox"/> 806
	3:15 – 4:45 PM <input type="checkbox"/> 401 <input type="checkbox"/> 402 <input type="checkbox"/> 403 <input type="checkbox"/> 404 <input type="checkbox"/> 405 <input type="checkbox"/> 406	2:45 – 3:45 PM <input type="checkbox"/> 901 <input type="checkbox"/> 902 <input type="checkbox"/> 903 <input type="checkbox"/> 904 <input type="checkbox"/> 905 <input type="checkbox"/> 906
	5:00 – 6:00 PM <input type="checkbox"/> 501 <input type="checkbox"/> 502 <input type="checkbox"/> 503 <input type="checkbox"/> 504 <input type="checkbox"/> 505 <input type="checkbox"/> 506	



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**September 23-25, 2007**  
Renaissance Harborplace Hotel  
Baltimore, MD

# FRAUD & COMPLIANCE FORUM

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and save!**

HealthCare Appraisers, Inc. and PricewaterhouseCoopers  
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