



# Fundamentals of Health Law



**November 2-4, 2009**  
**Hyatt Regency Chicago**  
**Chicago, IL**

## **Planning Committee:**

David E. Matyas, Esq., *Program Chair*

Barry D. Alexander, Esq.

Lois Cornell, Esq.

Asha B. Scielzo, Esq.

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*West, a Thomson Reuters Business has provided sponsorship in support of this program.*



# Fundamentals of Health Law

## Program Agenda

### Monday, November 2, 2009

12:00 noon–5:30 pm

#### Registration and Information

#### GENERAL SESSION

12:45–1:05 pm

#### Welcome and Introduction

*David E. Matyas, Program Chair*

1:05–2:55 pm

#### Medicare Fundamentals

*Barry D. Alexander*

*James F. Flynn*

- Brief history and structure of the Medicare program
- The relationship between the various parts of the Medicare program
- Breakdown of Parts A and B coverage, reimbursement and appeals
- Overview of Parts C and D
- Current hot topics, new legislation, and CMS regulatory initiatives

2:55–3:10 pm

#### Break

3:10–4:15 pm

#### Health Reform: Modest or Transformational?

*Teresa A. Brooks*

- Will there be healthcare reform legislation in 2009?
- How will the healthcare be reformed?
  - Insurance reforms
  - Entitlement reforms
- What are the significant changes affecting hospitals, physicians and payors?

4:15–5:30 pm

#### Antitrust Issues

*David Marx, Jr.*

- The antitrust laws, their purpose, and their public and private enforcers
- Antitrust issues—from *per se* rules of illegality to the North Texas Specialty Physicians “sliding scale” to full-blown rule of reason analysis
- Joint ventures and other collaborative arrangements, including provider networks
- Hot topics, including: Evidence of increased (and after-the-fact) merger enforcement by the Obama administration; “reverse-payment” settlements of patent infringement litigation between brand name and generic drug manufacturers; and “clinical integration”

5:30–6:30 pm

#### Reception sponsored by West, a Thomson Reuters Business

(attendees, speakers and registered spouses and guests welcome)

6:30–7:30 pm

#### Diversity Reception

AHLA's Advisory Council on Diversity invites attendees to this reception to meet colleagues and AHLA leaders who not only share an interest in healthcare law, but are also committed to furthering the Association's diversity efforts and initiatives.

### Tuesday, November 3, 2009

7:00 am–5:35 pm

#### Registration and Information

7:00–8:00 am

#### Continental Breakfast sponsored by West, a Thomson Reuters Business

(attendees, speakers and registered spouses and guests welcome)

#### GENERAL SESSION

8:00–9:20 am

#### Welcome

*Richard L. Shackelford, AHLA President-Elect*

#### Tax Exemption and Tax Issues

*Thomas K. Hyatt*

- The basics of tax-exempt status for healthcare organizations
- Operational issues: UBI, intermediate sanctions, compensation, governance
- Organizational issues: Reorganizations and joint ventures
- Current IRS initiatives and concerns

9:20–10:40 am

#### Anti-Kickback and Stark

*David E. Matyas*

- What is the federal physician self-referral law and why is it called the “Stark Law”?
- What was in the Stark II Phase II Regulations?
- What is prohibited by the Anti-Kickback Statute and what are the “safe harbors”?
- What role do Special Fraud Alerts and Advisory Opinions play in providing legal advice to my clients?
- What are some of the recent government enforcement actions related to these statutes?

# Chicago, IL

## Program Agenda

10:40–10:55 am

### Break

10:55 am–12:15 pm

### Civil False Claims Act: Basic Principles and Issues for Health Lawyers

*Richard L. Shackelford*

*Linda A. Wawzenski*

- Civil False Claims Act and selected cases
- Recent Amendments to the civil False Claims Act
- Specific applications of the civil False Claims Act: Quality of care, off-label drug and device promotion and more
- Considerations involving voluntary self-disclosure

12:15–1:30 pm

### Lunch on your own or attend the Regulation, Accreditation, and Payment and In-House Counsel Practice Group Luncheon

(additional fee, limited attendance, pre-registration required; see page 11)

### Conducting Regulatory Research

*Priya J. Bathija*

*Dinetia M. Newman*

## CONCURRENT SESSIONS

1:45–2:55 pm

### A. Introduction to Medical Coding for Lawyers

(not repeated)

*Robert A. Pelaia*

- The basics of procedural (CPT) coding and diagnosis (ICD) coding
- How to use the CPT, ICD and HCPCS manuals
- OIG-suggested coding best practices

### B. Legal Ethics: Understanding Attorney-Client and Work Product Privileges

*Philip L. Pomerance*

- The fundamentals
- Some specifics for the healthcare lawyer (HIPAA and State medical records law from a legal ethics perspective)
- Preserving your client's privilege when the client (and maybe you) are under investigation

### C. Privacy and Security of Health Information: HIPAA, HITECH and Red Flags

*Bernadette M. Broccolo*

*Rebecca C. Fayed*

- HIPAA privacy and security rules
- HITECH Act and related rules and agency guidance
- Red Flag rules

3:05–4:15 pm

### D. Medicare Parts C and D (not repeated)

*Kathleen A. Peterson*

- General regulatory framework applicable to the Medicare Part C (managed care) and Medicare Part D (outpatient prescription drug benefit) programs
- Historical overview and key “players”
- Scope of coverage and structure of payments for each program
- Recent developments
- Significant enforcement issues

### E. Life Cycle of a Physician-Practice Association

*Peter A. Pavarini*

*Michael F. Schaff*

- Who is your client?
- Who can employ a physician?
- Basic issues in physician employment contracts
- Becoming a shareholder in a medical practice
- Retirement/sale
- Post-termination restrictions (such as non-competes; use of medical records)
- Terminating/dissolving a medical practice
- New alternatives for physicians

### F. Corporate Compliance and Corporate Governance

*Charles E. Reiter, III*

*Asha B. Scielzo*

- Defining compliance and navigating the compliance landscape
- Understanding the elements of an effective corporate compliance program
- Contrasting corporate compliance programs and corporate integrity agreements
- Defining good corporate governance
- Understanding how corporate compliance and corporate governance intersect

4:25–5:35 pm

### G. Fundamentals of Medicaid (not repeated)

*Jennifer L. Evans*

*Jackie Garner*

- History and basics around Medicaid (waiver process, State Plans, etc.)
- Medicaid: Current status
  - Coverage, benefits, financing
  - Themes and trends
- Medicaid Program Integrity
- New legislation
  - ARRA
  - CHIPRA

# Fundamentals of Health Law

## Program Agenda

### H. Physician Hospital Relationships: The Tentative Tango

*Sidney S. Welch*

- The laws that govern physician/hospital relationships
- The Issues that arise from medical staff relationship
- Business relationships between physicians and hospitals and the issues that arise

### B. Legal Ethics: Understanding Attorney-Client and Work Product Privileges (repeat)

5:35–6:45 pm

**Reception sponsored by West, a Thomson Reuters Business**

(attendees, speakers and registered spouses and guests welcome)

## Wednesday, November 4, 2009

7:00 am–4:10 pm

**Registration and Information**

7:00–8:00 am

**Continental Breakfast sponsored by West, a Thomson Reuters Business**

(attendees, speakers and registered spouses and guests welcome)

### GENERAL SESSION

8:00–9:40 am

**Board and Management Considerations in a Hospital M&A Transaction: A Case Study**

*Anthea R. Daniels*

*Ann K. Ford*

*Douglas B. Swill*

- Structuring the transaction using a case study based on a hospital's need to affiliate with another health system
- Preliminary transactional activities including board and management counseling, confidentiality agreements, letters of intent and due diligence
- Negotiating and drafting the definitive agreement
- Undertaking regulatory approval processes and other pre-closing activities

### CONCURRENT SESSIONS

10:00–11:10 am

#### J. Long Term Care, Home Care and Hospice

(not repeated)

*Todd J. Selby*

- Introduction to Medicare and Medicaid coverage and reimbursement for nursing homes, home health agencies, hospices and durable medical equipment suppliers
- Current topics of fraud and abuse and their impact on nursing homes, home health agencies, hospices and durable medical equipment suppliers
- Updates for: (1) Five Star Quality Rating System for nursing homes; (2) the new hospice Conditions of Participation; and, (3) healthcare reform initiatives affecting nursing homes, home health agencies and hospices

#### K. Enterprise Risk Management (ERM) Principles and Provider Liability

*Jay A. Martus*

*Peggy L.B. Nakamura*

- ERM for healthcare institutions and individual providers, including risk domains (categories) and applicable ERM processes
- Liability arising from human capital, technology, strategic, financial, legal/regulatory and operations categories for provider institutions and individuals in the healthcare environment
- Proactive risk mitigation and minimization strategies, utilizing ERM principles and processes

#### F. Corporate Compliance and Corporate Governance (repeat)

11:20 am–12:30 pm

#### L. Managed Care Nuts and Bolts (not repeated)

*Lois Cornell*

- The regulatory maze
- Contracts, risks and challenges for managed care plans
- Managed care under health reform

#### C. Privacy and Security of Health Information: HIPAA, HITECH and Red Flags (repeat)

#### E. Life Cycle of a Physician-Practice Association (repeat)

## Program Agenda

12:30–1:30 pm

**Lunch on your own**

### CONCURRENT SESSIONS

1:40–2:50 pm

#### **M. The Art of War: E-Discovery in the Electronic Medical Record Environment** (not repeated)

*Melissa L. Markey*

- Almost everyone agrees that increased use of electronic medical records is important to support health reform
- Issues that arise in e-Discovery in EMRs
- Principles from Sun Tzu's Art of War will be used to help illustrate the life cycle of e-Discovery preparedness in the world of electronic medical records
- When does preparation for e-Discovery begin?
- Who is in charge? Who should be in charge?
- Why is this a critical issue for non-litigators?
- What are some of the traps for the unwary?

#### **H. Physician Hospital Relationships: The Tentative Tango** (repeat)

#### **K. Enterprise Risk Management (ERM) Principles and Provider Liability** (repeat)

### GENERAL SESSION

3:00–4:10 pm

#### **Pulling It All Together – A Joint Venture Case Study**

*Barry D. Alexander (Moderator)*

*Thomas K. Hyatt*

*David Marx, Jr.*

*David E. Matyas*

### ADJOURNMENT

## Program Faculty

### PLANNING COMMITTEE

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Atlanta, GA

# Chicago, IL

## Program at a Glance

**Monday, November 2, 2009**

|                        |   |
|------------------------|---|
| 12:00 noon–<br>5:30 pm | <b>Registration and Information</b>   |
| 12:45–<br>1:05 pm      | <b>Welcome and Introduction</b><br><i>Matyas</i>  |
| 1:05–<br>2:55 pm       | <b>Medicare Fundamentals</b><br><i>Alexander, Flynn</i>   |
| 2:55–<br>3:10 pm       | <b>Break</b>  |
| 3:10–<br>4:15 pm       | <b>Health Reform: Modest or Transformational?</b><br><i>Brooks</i>  |
| 4:15–<br>5:30 pm       | <b>Antitrust Issues</b><br><i>Marx</i>  |
| 5:30–<br>6:30 pm       | <b>Reception sponsored by West, a Thomson Reuters Business</b><br>(attendees, speakers and registered spouses and guests welcome) |

**Tuesday, November 3, 2009**

|                       |   |   |  |
|-----------------------|---|---|--|
| 7:00 am–<br>5:35 pm   | <b>Registration and Information</b>   |   |  |
| 7:00–<br>8:00 am      | <b>Continental Breakfast sponsored by West, a Thomson Reuters Business</b><br>(attendees, speakers and registered spouses and guests welcome)   |   |  |
| 8:00–<br>9:20 am      | <b>Welcome</b><br><i>Shackelford</i>  |   |  |
|                       | <b>Tax Exemption and Tax Issues</b><br><i>Hyatt</i>   |   |  |
| 9:20–<br>10:40 am     | <b>Anti-Kickback and Stark</b><br><i>Matyas</i>   |   |  |
| 10:40–<br>10:55 am–   | <b>Break</b>  |   |  |
| 10:55 am–<br>12:15 pm | <b>Civil False Claims Act: Basic Principles and Issues for Health Lawyers</b><br><i>Shackelford, Wawzenski</i>  |   |  |
| 12:15–<br>1:30 pm     | <b>Lunch on your own or attend the Regulation, Accreditation, and Payment and In-House Counsel Practice Group Luncheon</b><br>(additional fee, limited attendance, pre-registration required) |   |  |
|                       | <b>Conducting Regulatory Research</b><br><i>Bathija, Newman</i>   |   |  |
| 1:45–<br>2:55 pm      | <b>A. Introduction to Medical Coding for Lawyers</b><br>(not repeated)<br><br><i>Pelaia</i>   | <b>B. Legal Ethics: Understanding Attorney-Client and Work Product Privileges</b><br><br><i>Pomerance</i> | <b>C. Privacy and Security of Health Information: HIPAA, HITECH and Red Flags</b><br><br><i>Broccolo Fayed</i> |

# Fundamentals of Health Law

## Program at a Glance

Tuesday, November 3, 2009 (Continued)

|                  |   |   |   |
|------------------|---|---|---|
| 3:05–<br>4:15 pm | <b>D. Medicare Parts C and D</b><br>(not repeated)<br><br><i>Peterson</i>   | <b>E. Life Cycle of a Physician-<br/>Practice Association</b><br><br><i>Pavarini<br/>Schaff</i> | <b>F. Corporate Compliance and<br/>Corporate Governance</b><br><br><i>Reiter<br/>Scielzo</i>                                  |
| 4:25–<br>5:35 pm | <b>G. Fundamentals of Medicaid</b><br>(not repeated)<br><br><i>Evans<br/>Garner</i>   | <b>H. Physician Hospital<br/>Relationships: The Tentative<br/>Tango</b><br><br><i>Welch</i>     | <b>B. Legal Ethics:<br/>Understanding Attorney-Client<br/>and Work Product Privileges</b><br>(repeat)<br><br><i>Pomerance</i> |
| 5:35–<br>6:45 pm | <b>Reception sponsored by West, a Thomson Reuters Business</b><br>(attendees, speakers and registered spouses and guests welcome) |   |   |

Wednesday, November 4, 2009

|                       |   |   |  |
|-----------------------|---|---|--|
| 7:00 am–<br>4:10 pm   | <b>Registration and Information</b>   |   |  |
| 7:00–<br>8:00 am      | <b>Continental Breakfast sponsored by West, a Thomson Reuters Business</b><br>(attendees, speakers and registered spouses and guests welcome) |   |  |
| 8:00–<br>9:40 am      | <b>Board and Management Considerations in a Hospital M&amp;A Transaction:<br/>A Case Study</b><br><i>Daniels, Ford, Swill</i>                 |   |  |
| 10:00–<br>11:10 am    | <b>J. Long Term Care, Home<br/>Care and Hospice</b><br>(not repeated)<br><br><i>Selby</i>   | <b>K. Enterprise Risk<br/>Management (ERM) Principles<br/>and Provider Liability</b><br><br><i>Martus<br/>Nakamura</i>                | <b>F. Corporate Compliance and<br/>Corporate Governance</b><br>(repeat)<br><br><i>Reiter<br/>Scielzo</i>                           |
| 11:20 am–<br>12:30 pm | <b>L. Managed Care Nuts<br/>and Bolts</b><br>(not repeated)<br><br><i>Cornell</i>   | <b>C. Privacy and Security of<br/>Health Information: HIPAA,<br/>HITECH an Red Flags</b><br>(repeat)<br><br><i>Broccolo<br/>Fayed</i> | <b>E. Life Cycle of a Physician-<br/>Practice Association</b><br>(repeat)<br><br><i>Pavarini<br/>Schaff</i>                        |
| 12:30–<br>1:30 pm     | <b>Lunch on your own</b>  |   |  |
| 1:40–<br>2:50 pm      | <b>M. The Art of War: E-Discovery<br/>in the Electronic Medical<br/>Record Environment</b><br>(not repeated)<br><br><i>Markey</i>             | <b>H. Physician Hospital<br/>Relationships: The<br/>Tentative Tango</b><br>(repeat)<br><br><i>Welch</i>                               | <b>K. Enterprise Risk<br/>Management (ERM) Principles<br/>and Provider Liability</b><br>(repeat)<br><br><i>Martus<br/>Nakamura</i> |
| 3:00–<br>4:10 pm      | <b>Pulling It All Together – A Joint Venture Case Study</b><br><i>Alexander (Moderator), Hyatt, Marx, Matyas</i>                              |   |  |

# Chicago, IL

## Program Information

**Dates:** November 2-4, 2009  
**Place:** Hyatt Regency Chicago  
151 East Wacker Drive  
Chicago, IL 60601  
**Phone:** (312) 565 1234

### Registration Fees:

\$710 For the first AHLA Member  
\$635 Second Member  
\$625 per person when 3 or more people from the same company or firm register together  
\$935 Non-Members

### Printed Course Materials: \$45

\* Registration fees increase \$125 after this date.

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

**Discounted Registration Fees:** Government employees, in-house counsel, academicians, solo practitioners, and students: please call (202) 833-1100, prompt #2 for special discounted registration fees.

A discounted rate is also available for paralegals. For non-members, the paralegal rate includes one year of electronic membership.

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

**Continuing Education:** Participants will be given continuing education forms at the program. Forms must be completed and returned to AHLA staff to receive credit. AHLA is an approved sponsor of continuing legal education credits in most states. This seminar will be worth approximately 16.8 continuing education credits (including 1.0 ethics credit) based on a 60-minute hour and 20.2 credits (including 1.2 ethics credits) based on a 50-minute hour.

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. Website: [www.nasba.org](http://www.nasba.org). This seminar will be worth approximately 20.0 CPE credits.

**Hotel Reservations:** Hotel accommodations are not included in the registration fee. Call The Hyatt Regency Chicago at (312) 565-1234. If calling, please indicate that you are attending the AHLA program. Rooms at the group rate of \$259 for single or

double occupancy are limited and may sell out prior to the **October 12, 2009** cutoff date.

**Membership:** Dues are \$185 for those admitted to the Bar/graduated from college within the last four years; \$300 for those admitted/ graduated more than four but less than eight years ago; and \$345 for those admitted/graduated eight or more years ago. Dues are \$155 (or \$75 for electronic benefits) for government employees, paralegals, and full-time academicians; \$105 for public interest attorneys and \$15 for full-time law school students to receive benefits electronically. Include the applicable membership fee with your registration form and take advantage of the program registration fee for members.

**Cancellations/Substitutions:** Cancellations must be received in writing **no later than October 23, 2009**. Refunds will not be issued for cancellations received after this date. Registration fees, less a \$125 administrative fee, will be refunded approximately 3-4 weeks following the program. If you wish to send a substitute or need more information regarding refund, complaint and program cancellation policies, please call the Member Service Center at (202) 833-1100, prompt #5. Please note that registration fees are based on the AHLA membership status of the individual who actually attends the program.

**Special Needs:** If you have needs requiring special assistance or accommodations, including special dietary needs, or have questions about accessibility issues at the program, contact our special needs coordinator, Valerie Eshleman at (202) 833-0784 or [veshleman@healthlawyers.org](mailto:veshleman@healthlawyers.org).

**Travel:** Association Travel Concepts (ATC) has negotiated discounts with United, American, Hertz and Avis Rental Car to bring you special airfares and car rental rates lower than those available to the public. Discounts of 5-15% apply to travel on October 30-November 7, 2009. Some restrictions may apply and a service fee may apply. ATC will also search for the lowest available fare on any airline.

### ASSOCIATION TRAVEL CONCEPTS

1-800-458-9383

email: [reservations@atcmeetings.com](mailto:reservations@atcmeetings.com)

[www.atcmeetings.com](http://www.atcmeetings.com)

(follow the Member Travel links)

Fax: (858) 362-3153

ATC is available for reservations from 8:30 am until 8:00 pm Eastern, Monday through Friday.

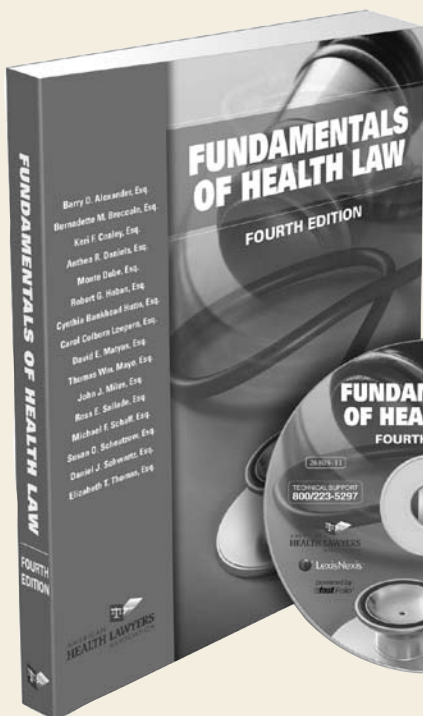
# © PRACTICE GROUPS

Practice Groups are composed of volunteer members who share a similar work setting or interest in specific areas of health law and who wish to increase their level of expertise in and knowledge of health law issues, grow professionally, gain valuable leadership experience, and network with other health lawyers from across the country. Members enrolled in a PG receive a range of additional benefits, products, and services (the value far exceeds the cost). This option enables a member to access all the Groups' websites, receive electronic benefits such as email alerts and newsletters, and enjoy all the discounts that PG members receive when registering for PG-sponsored luncheons and webinars. AHLA members who were eligible to join the Association as an Academician, Government, or Paralegal member and opted to receive their benefits electronically are able to select and pay for access to all the PGs. There are 16 unique Practice Groups. Go online <http://www.healthlawyers.org/Members/PracticeGroups/Pages/default.aspx> for more information and to enroll.

Enrollment costs \$45 per Practice Group / Four Practice Groups (each at \$45) and for an additional \$75, receive online access to the remaining Groups.

## Fundamentals of Health Law, 4th Edition

This specialized and complex field of health law requires a thorough grounding in the basics, and *Fundamentals of Health Law*, 4th Edition, provides that grounding as no other book on the market does.



This new edition has been thoroughly revised and made current to cover the basic issues of health law practice, from patient to facility issues, from permits and regulation issues to compliance and investigation issues, and includes issues raised by new laws, regulations and guidelines promulgated since the third edition in 2004.

This publication covers fundamental legal principles and issues to assist: New Practitioners or experienced attorneys entering their first years of health-law practice; Teachers of health law searching for a comprehensive text for their students; and Users of any law library looking for answers on the health law resource shelf.

**For more information or to order, please visit our website at [www.healthlawyers.org/bookstore](http://www.healthlawyers.org/bookstore) or call 800-533-1637.**

# Chicago, IL

## Fundamentals of Health Law Registration Form

**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) 775-2482. To register by phone call (202) 833-1100, prompt #2. If any program is over-subscribed, only AHLA 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 \_\_\_\_\_

### Registration Fees:

**AHLA Members:**  \$710

**Non-Members:**  \$935

\$635 second AHLA member registering from same organization at same time on the same check or credit card payment

### Group Registration

\$625 per person when 3 or more people from the same company or firm register together

### Paralegals Registration

\$425 Members  \$450 NonMembers (includes one year of e-membership)

**I will require:**  audio  visual  mobility  other assistance \_\_\_\_\_

I have special dietary needs

### PAYMENT INFORMATION

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

\$ \_\_\_\_\_ Registration Fee

\$ \_\_\_\_\_ Regulation, Accreditation, and Payment and In-House Counsel Practice Groups Luncheon (\$35 for members of the RAP or IHC PG/\$45 for non-members; Tuesday, November 3, 2009)

\$ \_\_\_\_\_ Spouse/Guest Fee (\$30)

\$ \_\_\_\_\_ Membership Dues (Date admitted to the bar/graduated:   /   /   )

\$ \_\_\_\_\_ Total Enclosed

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