

Long Term Care and the Law



February 25–27, 2009
Planet Hollywood Resort & Casino
Las Vegas, NV



ZIMMET HEALTHCARE
SERVICES GROUP, LLC



*PointRight Inc. and Zimmet Healthcare Services Group LLC
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Program Planning Committee:
Alan E. Schabes, Esq. – Program Chair
David S. Cade, Esq.
Dianne J. De La Mare, JD
Christopher C. Puri, Esq.

Program held in cooperation with:



Program Agenda

Wednesday, February 25, 2009

8:30 am- 5:15 pm

Registration and Information

9:30 -11:30 am

Introduction to Long Term Care

Julie Bowman Mitchell

Carol Rolf

- Basics of Medicare and Medicaid reimbursement
- Survey, certification and enforcement for nursing homes and other providers
- Contracting issues in and between long term care providers and vendors
- Fraud and abuse, business strategy, financing and tort liability
- Researching long term care issues
- Overview of nursing homes and assisted living facilities
- Hospice services

9:30-11:30 am

Interactive Discussion Groups

Attendance is limited to 30 people for each; pre-registration is required; \$40 additional-please see page 19 to register.

**Group 1: LTC Admission Agreements:
A Cutting Edge Conversation Regarding
Best Practices**

Marc S. Blubaugh

Donna J. Fudge

- The drafting, enforceability and regulatory significance of alternative dispute resolution clauses
- The proper signatories to and the proper execution of admission agreements, responsible party agreements and related admission paperwork
- The use of risk management clauses to set expectations
- Drafting techniques aimed at improving collections

Group 2: Survey Appeal Trial Practices

Joseph L. Bianculli

Geoffrey Webster

- Can a nursing facility win a DAB appeal?
- Good cases and dead duck losers
- Cross examining CMS evidence
- Creating a record for judicial appeal
- Discussion of procedural improvements—discovery, uniform rules, settlement conferences, etc.

Group 3: Assisted Living In-House Counsel

Barbara J. Duffy

John F. Leebron

- Interactive discussion with audience on legal issues they face in operating their assisted living facilities including the following:
 - Regulatory and legislative trends
 - Fraud and abuse
 - Liability
 - Issues that affect enforcement of certain agreements with residents that we term “agency law”
 - Labor and employment
- Active dialogue of shared best practices and strategies to address an uncertain legal environment

Group 4: Nursing Facility In-House Counsel

David C. Beck

David S. Cade

Based on the interests of the participants, this interactive group will discuss topics facing in-house counsel such as:

- Recovery Audit Contractors
- Special focus facilities
- President’s budget and initiatives
- Enforcement
- Federal survey and certification letters
- Medicare/Medicaid integrity programs
- Medicaid funding and caps on provider taxes
- Deficit Reduction Act FCA Education
- Five star ratings
- Arbitration limitations
- Health information technology

11:30 am-12:45 pm

Lunch on your own

Program Agenda

GENERAL SESSION

12:45-1:00 pm

Welcome and Introduction

Joel M. Hamme, AHHA President

Alan E. Schabes, Program Chair

1:00-2:30 pm

In Their Own Words – A Discussion with the DAB and ALJs on Survey, Enforcement and Appeals

Hon. Constance B. Tobias (moderator)

Hon. Jose A. Anglada

Hon. Carolyn C. Hughes

Hon. Steven T. Kessel

Hon. Alfonso J. Montano

Hon. Keith W. Sickendick

Hon. Richard J. Smith

2:30-3:15 pm

Keynote Address

The States and Healthcare/Medicaid/Long Term Care Reform

Matt Salo

3:15-3:45 pm

Coffee Break Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC

CONCURRENT SESSIONS

(Please note the end times of the following sessions)

3:45-4:45 pm

A. State Panel on Medicaid Fraud (not repeated)

Heidi Robbins Brown

David Frank

- CMS's Medicaid Integrity Program (MIP) has begun its national provider audit program. Contractors are in place in approximately half of the states in order to conduct post-payment audits of fee-for-service providers
- CMS will expand the MIP provider audit program throughout federal fiscal year 2009, putting contractors in place for all remaining states
- CMS will work with state Medicaid agencies to make the MIP provider audit program as effective as possible

- Medicaid program integrity remains an issue of vital importance to states and the federal government. CMS and state Medicaid agencies will continue to look for ways to partner in the effort to increase program integrity efforts nationwide

3:45-5:15 pm Extended Sessions

B. Survey and Enforcement Update

Anne E. Hall

Kelly A. Priegnitz

- Congressional proposals
- CMS's regulatory changes and proposals
- ALJ, DAB and federal court survey and enforcement decisions
- Recently-issued CMS policies, protocols, manual issuances and guidance
- GAO and OIG activity affecting CMS survey and enforcement functions

C. Case Law Update

Scott Kiepen

Darrell D. Zurovec

This session will provide an overview of federal, state and administrative case law and opinions in the following areas:

- Medicare and Medicaid reimbursement
- Survey, certification and enforcement update
- Fraud, abuse, self-referral and False Claims Act litigation
- Assisted living, home health and hospice matters
- Liability issues

D. Regulatory and Legislative Update: Policy Priorities in a New Political Environment

Deborah A. McCurdy

Cynthia K. Morton

- Legislative and regulatory issues to watch for in 2009
- Nursing home ownership transparency
- Quality initiative: pay-for-performance, quality reporting, special focus facilities
- Medicare and Medicaid funding in a time of budget constraints
- Restrictions on nursing home patient arbitration agreements



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E. Assisted Living Update

Brian E. Danaher

Martha E. Meng

- Challenges to involuntary discharges under the FHAA/ADA
- Use of third-party providers
- Abuse and neglect reporting and enforcement activity
- Fraud and abuse concerns
- Ratings systems
- Disclosure
- Emerging risk management issues

5:00-6:30 pm

Reception Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC
(attendees, speakers, children, registered spouses and guests welcome)

Thursday, February 26, 2009

7:00 am-5:35 pm

Registration and Information

7:00-8:30 am

Continental Breakfast Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC
(attendees, speakers, children, registered spouses and guests welcome)

CONCURRENT SESSIONS

(Please note the start times of the following sessions)

8:00-9:30 am Extended Sessions

F. RACs – Preparing for Their Second Coming and Effective Appeal Strategies

Roland G. Rapp

Mark E. Reagan

- The timing, rules and procedures of the permanent RAC program
- Lessons learned from the RAC pilot in California
- Areas of potential focus in long term care
- Strategies to effectively appeal and limit recoupment under the MMA
- Managing the appeals process from an internal perspective

C. Case Law Update (repeat)

D. Regulatory and Legislative Update: Policy Priorities in a New Political Environment (repeat)

8:30-9:30 am

G. Fair Housing Challenges for Senior Care Providers (not repeated)

Robin Dale

Paul A. Gordon

- Basic fair housing rules in the context of daily operational challenges faced by assisted living, independent living and CCRC providers
- Current hot topics, including admission agreements, transfer between levels of care and safety rules affecting use of motorized carts and walkers
- Recent FHA cases impacting senior housing providers
- Disability, religious, sexual orientation, race and other areas of concern and how they apply to customs and practices in the industry
- Practical tips to help avoid FHA/ADA challenges, and implement policies and procedures that reduce risk and still meet operational goals
- Sample policies and admission agreements addressing FHA issues

H. Developing Strategic Relationships between SNFs, Assisted Living and Other Long Term Care and Healthcare Providers in the 21st Century

Barry N. Bortz

Richard J. Brockman

- The changing SNF Model – “Transitional Care Facilities”
- The changing demands of “baby boomers”
- Integrative medicine and reimbursement issues
- Working with government and courts to navigate through current obstacles
- Affiliations with assisted living, hospice and other senior housing providers

9:45-10:45 am

J. Current Topics for Assisted Living Residency Agreements (not repeated)

Betty J. Ulmer

Mary T. Zak-Kowalczyk

- Marketing and the residency agreement
- Managing resident and family expectations
- Disclosure: Public funding limitations and Medicaid waiver residents

Program Agenda

- Scooters and other motorized vehicles and fair housing laws
- Payment guarantees: family members and legal representatives

K. Defending against the Trilogy – Contemporaneous Criminal, Civil and Administrative Proceedings

Norris Cunningham

J. Richard Kiefer

- Aggressive defense of civil lawsuits without jeopardizing criminal and administrative proceedings
- Coordination of civil, criminal and administrative proceedings when multiple lawyers and firms are involved
- Deposition or 5th Amendment Privilege – The inherent dilemma between civil cases and criminal investigations
- Negotiating settlements: Global or individual?
- Identifying and resolving conflict of interest issues in civil, criminal and administrative collateral proceedings

L. Strategies for Dealing with Special Focus Facility (SFF) Status

Steven B. Littlehale

Fred Miles

- How CMS and state agencies determine facilities that are candidates for SFF designation
- List biases that exist (statistical and otherwise) in the CMS SFF selection methodology and how can they be countered
- Distinguish between timeframes and types of surveys in the SFF selection process
- Strategies that can be employed to reduce the risk of SFF designation
- Legal avenues that are available to obtain SFF data and selection/removal criteria
- Are there legal options available to challenge the SFF designation and status now that CMS has declared that SFF designation and status is not appealable under the federal regulatory scheme?
- What legal strategies can be developed to force removal from the SFF list

M. HUD Financing Market

Andrea C. Barach

Steve J. Maag

- Learn the basics of HUD financing programs available for long term care facilities, including the 232 program and the 241 program
- Learn the process of HUD financing, from applications to closing and key points to understand as you prepare for the process
- Learn what impact the Obama administration may have on HUD financing programs
- Hear about the new LEAN process for 232 applications
- Discuss common structuring issues that often arise in a HUD transaction and the key points to understand, particularly involving nonprofit borrowers and borrowers with multiple facilities

11:00 am - 12:00 noon

N. Disruptive Residents and the Law

(not repeated)

Joel S. Goldman

Bonnie H. Krisztal

- How to look for and respond to “red flags” prior to admission
- Early intervention with difficult residents and family members
- Need to document incidents in writing and communicate with residents and families orally and in writing
- Pros and cons of various responses to disruptive behavior
- Removing intransigent residents
- Difficulty in discharging/evicting resident due to disruptive family member
- Practical approaches to addressing rights of employees who are subjected to harassing behavior from residents or family members

O. A Day in the Life of a Hurricane: Surviving Hurricane Ike (not repeated)

Annaliese Impink

Before the Storm:

- Discuss helpful approaches to preparing for an emergency from a legal/operational standpoint
- Legal considerations regarding whether to “stay or go”
- Preparing to evacuate or shelter in place



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During the Storm:

- Discuss helpful approaches to weathering the storm
- Benefits to a central command center

After the Storm – Picking up the Pieces:

- Insurance considerations
- Regulatory obligations
- Rebuilding physically, mentally and legally

P. Legal Ethics: Dodging, Disclosing and Dealing with Client Fraud and Other Misconduct

Harry M. Brown

- A lawyer's ethical obligations to both clients and non-clients, including preserving client confidentiality and disclosing client fraudulent or criminal conduct
- Ethical considerations involved in representing corporations
- Best practices for avoiding ethical and liability pitfalls and limiting a lawyer's exposure to liability for client conduct
- The potential for exposure to criminal prosecution and civil liability based upon a lawyer's involvement in or response to client fraud or other misconduct

Q. Identity Theft as New Age Elder Abuse: Compliance with the "Red Flag" Rules

Richard E. Gardner, III

- Overview of the FTC's "Red Flag" Rules
- Compliance strategies
- Designing a comprehensive identity theft prevention program
- Overlap with HIPAA Privacy and Security Policies
- The coming OIG Security Audits
- CMS and the lost laptop

L. Strategies for Dealing with Special Focus Facility (SFF) Status (repeat)

12:00-1:30 pm

Lunch on your own or attend the Long Term Care, Senior Housing, In-Home Care and Rehabilitation Practice Group Luncheon

(additional fee; limited attendance; pre-registration required – see page 19)

Which Way is the Wind Blowing in Washington: Staying Focused When Change Happens

Howard L. Sollins (moderator)

Marsha R. Greenfield

David Herbst

The luncheon speakers will discuss healthcare policy changes, trends and issues that will affect the long term care industry. The following issues will be addressed:

- Healthcare providers: An expense to be controlled or part of the stimulus?
- Long term care settings: What do we want them to look like? Who can afford to build them?
- Staffing, jobs, unions, and related reimbursement priorities
- The role of long term care in wider healthcare reform efforts: What services does CMS want to buy and from whom?
- Federal reform efforts and their effect on state Medicaid budgets
- Enforcement priorities: Redemption or termination

CONCURRENT SESSIONS

1:45-2:45 pm

R. Sexual Issues in a Long Term Care Setting (not repeated)

Karen L. Goldsmith

- Privacy rights of residents vis a vis family in sexual matters
- Potential criminal liability of facility staff in permitting sexual relations between residents
- Dealing with the problems raised by a sexual predator among the facility's population and ideas to deal with them
- Potential civil liability for sexual assault in the facility
- Dealing with staff prejudices and concepts of sexual activity in the elderly

Program Agenda

S. Risk Management Audit: Identifying Tips to Avoid Conflicts

Tara A. Cope

Barbara J. Duffy

- Identify operations vulnerabilities that may lead to legal liabilities
- Examine issues related to non-residents in your building, including private duty aides, volunteers and family members
- Understand the importance of documentation
- Communicate effectively with regulators, residents and families

T. Legal Ethics: Representing Multiple Parties in Healthcare Transactions

Philip L. Pomerance

Harvey M. Tettlebaum

- Accepting a multiple representation (and when can you simply not do it)
- Writing an effective consent/waiver letter and getting the clients to agree
- Common hidden conflicts
- Thinking ahead to possible problems
- When the conflict may be waivable, but undertaking the representation is still a mistake (the “business conflict”)

U. Ancillary Contracting Update

Maureen Weaver

- Update of reimbursement (including consolidated billing), regulatory, fraud and abuse and contractual issues involved in contracting for ancillary services in the long term care setting
- Highlights from the OIG’s recent revised Compliance Program Guidance for Nursing Facilities
- Issues involved in contracting for hospice, medical director, pharmacy and other services

V. Reimbursement Compliance Auditing for Long Term Care Providers

Ari J. Markenson

Marc Zimmel

- Fundamental audit principles including risk identification, statistical sampling and data analysis
- Facilitating the attorney-consultant relationship through the audit process
- Determine if internal or external auditors are appropriate for specific issues
- Interpreting audit findings, benchmarking results and implementing corrective action plans

- Improving reimbursement and quality through the internal audit process
- Using audit findings in litigation and regulatory investigations and applying audit findings to discredit the opposition

2:55-3:55 pm

W. Hospice Risk Areas: OIG Risk Areas and the New Hospice Conditions of Participation and Their Impact on Long Term Care (not repeated)

Meg S.L. Pekarske

Todd J. Selby

- Fraud and abuse risk areas identified by the OIG in hospice/nursing home partnerships
- Update on the OIG’s analysis of hospice care in the nursing home and what this means for the future
- Examples of questionable practices that frequently occur in hospice/nursing home relationships and provide tips for avoiding these issues

X. Home and Community Based Waivers Update (not repeated)

Gale P. Arden

Christopher C. Puri

- CMS and HHS changes at the federal level, as well as the current state of Medicaid waivers and how these forces are changing Medicaid’s long term care benefit
- Future challenges in long term care and the barriers to success in moving toward more home and community based services
- The impact of current and future changes on various stakeholders with an emphasis on how it affects long term care providers and their counsel

Y. What Every Healthcare Employer (and Their Counsel) Need to Know about the Employee Free Choice Act

Thomas V. Walsh

- EFCA is slated for passage in the new administration’s first 100 days
- How this bill would fundamentally change the process of union organizing
- How the bill’s “interest arbitration” provisions would impose contract terms on the parties
- How EFCA would vastly increase remedies against employers – including civil fines and treble backpay



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- Status of the legislation and what employers should do now to prepare
- Z. Updating a Nursing Home Compliance Program: Operationalizing Newly Highlighted Risk Areas**
Catherine L. Hess
Howard L. Sollins
- New areas of compliance plan focus for the OIG
 - Techniques to incorporate OIG target areas into current compliance plans
 - Operationalize a compliance plan that incorporates effective auditing and monitoring components

AA. Medicaid Rate Adequacy and Funding Issues for Nursing Facilities

- Joel M. Hamme*
Joseph M. Lubarsky
- National and state data on shortfalls between allowable costs and Medicaid rates
 - State trends on Medicaid nursing facility rates
 - Case law developments on challenges to Medicaid rates and their adequacy
 - Basics of Medicaid funding mechanisms – provider taxes, provider donations and intergovernmental transfers
 - Update on emerging Medicaid funding issues

(Please note the end times of the following sessions)

4:05-5:05 pm

BB. Patient Safety Organizations (not repeated)

- Margaret M. Carley*
- Overview of the Final Patient Safety Organization Rules
 - Confidentiality, patient safety work products and healthcare providers
 - De-Identification of patient safety data by the NPSD (Network of Patient Safety Databases)
 - Implications of creating and/or participating in a Patient Safety Organization
 - Common reporting formats

P. Legal Ethics: Dodging, Disclosing and Dealing with Client Fraud and Other Misconduct (repeat)

4:05-5:35 pm Extended Sessions
B. Survey and Enforcement Update (repeat)

E. Assisted Living Update (repeat)

F. RACs – Preparing for Their Second Coming and Effective Appeal Strategies (repeat)

5:05-6:30 pm

Reception Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC (attendees, speakers, children, registered spouses and guests welcome)

Friday, February 27, 2009

7:00 am-3:25 pm

Registration and Information

7:30-8:30 am

Continental Breakfast Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC (attendees, speakers, children, registered spouses and guests welcome)

CONCURRENT SESSIONS

8:30-9:30 am

CC. Update on Long Term Care Life Safety Issues (not repeated)

- Thomas W. Jaeger*
- Review of new waiver process
 - Distributing policy through Statement of Deficiencies
 - Inconsistent CMS regional interpretations
 - What's changed since the two 2003 multiple death New Hampshire fires
 - New mandatory sprinkler regulation
 - When to challenge new Life Safety Code deficiencies

DD. State of Mergers and Acquisitions and Financing Market in Long Term Care

- Bradford C. Burkett*
- What is the state of financing?
 - Who is lending in the current environment?
 - How are sales being done?
 - Where are valuations?

Program Agenda

EE. Quality of Care – It's Not Just for Clinicians Anymore

Joanne R. Lax

- The role of the DHHS-OIG, DOJ, CMS, state criminal and healthcare regulatory law and the Quality Improvement Organizations in quality of care issues in skilled nursing facilities and the legal techniques that they use to force improved quality of care
- Ways to integrate quality of care matters into compliance plans and ways to enhance the role of Quality Assurance Committees
- The governing body's role in oversight of quality of care in skilled nursing facilities and assisted living facilities and techniques to facilitate activation of that role

H. Developing Strategic Relationships between SNFs, Assisted Living and Other Long Term Care and Healthcare Providers in the 21st Century (repeat)

Z. Updating a Nursing Home Compliance Program: Operationalizing Newly Highlighted Risk Areas (repeat)

9:40-10:40 am

FF. Telehealth and Remote Monitoring in Assisted Living, Home Care and Hospice (not repeated)

Deborah A. Randall

- Telehealth for SNF patients: The new model for long term care?
- Reimbursement changes for home health and hospice that drive telehealth
- Models of telehealth in chronic disease management in the US and Western Europe
- Quality of care standards in long term care: The new hospice QAPI and telehealth

GG. Are Your Documents up for Grabs?

Mary Frances Grabowski

Alan C. Horowitz

Paula G. Sanders

- When are incident reports and quality assurance activities discoverable?
- How far does the peer review privilege extend?
- How viable is the attorney-client privilege/work product doctrine in today's environment?
- What protections does the Patient Safety and

Quality Improvement Act of 2005 provide and how will state and federal regulators respond to claims that information is protected from disclosure to them as a result?

HH. Arbitration Clauses in Long Term Care Facility Admission Contracts

Kimber L. Latsha

Aric D. Martin

- Status of the Fairness in Nursing Home Arbitration Act and implications
- Case law on arbitration in nursing facility admission contracts
- Arbitration provisions commonly held to be unenforceable by courts
- Arbitration provisions usually upheld by courts
- State survey agency reactions to arbitration provisions

T. Legal Ethics: Representing Multiple Parties in Healthcare Transactions (repeat)

AA. Medicaid Rate Adequacy and Funding Issues for Nursing Facilities (repeat)

10:50-11:50 am

JJ. What's New, Different and on the Horizon in Labor and Employment Laws Impacting Long Term Care/Assisted Living Providers (not repeated)

John E. Lyncheski

- Recent issues and changes in labor and employment laws and regulations affecting long term care facilities
- Recent labor and employment decisions affecting long term care employers
- The likely impact of the November elections on labor and employment laws
- What's on the horizon in terms of new and different labor and employment legislation and regulation that will affect long term care employers

KK. Regulatory and Private Sector Responses to Ownership Changes in a Changing Climate (not repeated)

Donna J. Senft

- Types of ownership changes
- Applicable laws, regulations and manuals



Program Agenda

- Notice, approvals, and filing requirements, including 855 and related issues
 - Emerging changes in state review of ownership and control changes
- K. Defending against the Trilogy – Contemporaneous Criminal, Civil and Administrative Proceedings** (repeat)
- U. Ancillary Contracting Update** (repeat)
- V. Reimbursement Compliance Auditing for Long Term Care Providers** (repeat)
- 11:50 am- 1:15 pm
Lunch on your own
- CONCURRENT SESSIONS**
1:15-2:15 pm
- M. HUD Financing Market** (repeat)
- S. Risk Management Audit: Identifying Tips to Avoid Conflicts** (repeat)
- DD. State of Mergers and Acquisitions and Financing Market in Long Term Care** (repeat)
- EE. Quality of Care – It’s Not Just for Clinicians Anymore** (repeat)
- 2:25-3:25 pm
- Q. Identity Theft as New Age Elder Abuse: Compliance with the “Red Flag” Rules** (repeat)
- Y. What Every Healthcare Employer (and Their Counsel) Need to Know about the Employee Free Choice Act** (repeat)
- GG. Are Your Documents up for Grabs?** (repeat)
- HH. Arbitration Clauses in Long Term Care Facility Admission Contracts** (repeat)

ADJOURNMENT

Program Materials Go Green

AHLA is going green for the 2009 Long Term Care Program! We are trying to reduce the amount of paper we use at our programs. This is both an effort at responsible environmental conservation, and an effort to increase the timeliness of the resources provided to our attendees. We will not automatically be printing binders for everyone. All materials will be available on a website prior to the program so attendees can print what they need for the sessions they plan to attend and handed out on CD at the program. For those who still do want the binder, they will be available for an additional fee; please order on the registration form on page 19.

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Program at a Glance

Wednesday, February 25, 2009

Please note: Sessions in shaded boxes will address legal issues relevant to assisted living facilities.

8:30 am– 5:15 pm	Registration and Information					
	<i>Attendance for each discussion group is limited to 30 people; there is an additional charge of \$40; and pre-registration is required – please see page 19</i>					
9:30– 11:30 am	Introduction to Long Term Care <i>Bowman Mitchell Rolf</i>	Group 1: LTC Admission Agreements: A Cutting Edge Conversation Regarding Best Practices <i>Blubaugh Fudge</i>	Group 2: Survey Appeal Trial Practices <i>Bianculli Webster</i>	Group 3: Assisted Living In-House Counsel <i>Duffy Leebron</i>	Group 4 Nursing Facility In-House Counsel <i>Beck Cade</i>	
11:30 am– 12:45 pm	Lunch on your own					
12:45– 3:15 pm	General Session 12:45–1:00 pm Welcome and Introduction <i>Hamme, Schabes</i> 1:00-2:30 pm In Their Own Words – A Discussion with the DAB and ALJs on Survey, Enforcement and Appeals <i>Tobias – moderator, Anglada, Hughes, Kessel Montano, Sickendick, Smith</i> 2:30-3:15 pm The States and Healthcare/Medicaid/Long Term Care Reform <i>Salo</i>					
3:15– 3:45 pm	Coffee Break Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC					
Please note the end times of the following sessions						
3:45– 4:45 pm	A. State Panel on Medicaid Fraud (not repeated) <i>Robbins Brown Frank</i>	3:45- 5:15 pm Extended Sessions	B. Survey and Enforcement Update <i>Hall Priegnitz</i>	C. Case Law Update <i>Kiepen Zurovec</i>	D. Regulatory and Legislative Update: Policy Priorities in a New Political Environment <i>McCurdy Morton</i>	E. Assisted Living Update <i>Danaher Meng</i>
5:00– 6:30 pm	Reception Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC (attendees, speakers, children, registered spouses and guests welcome)					

Program at a Glance

Thursday, February 26, 2009

7:00 am– 5:35 pm	Registration and Information					
7:00– 8:30 am	Continental Breakfast Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC (attendees, speakers, children, registered spouses and guests welcome)					
Please note the start times of the following sessions						
8:00– 9:30 am Extended Sessions	F. RACs – Preparing for Their Second Coming and Effective Appeal Strategies <i>Rapp Reagan</i>	C. Case Law Update (repeat) <i>Kiepen Zurovec</i>	D. Regulatory and Legislative Update: Policy Priorities in a New Political Environment (repeat) <i>McCurdy Morton</i>	8:30– 9:30 am	G. Fair Housing Challenges for Senior Care Providers (not repeated) <i>Dale Gordon</i>	H. Develop- ing Strategic Relationships between SNFs, Assisted Living and Other Long Term Care and Healthcare Providers in the 21st Century <i>Bortz Brockman</i>
9:45– 10:45 am	J. Current Topics for Assisted Living Residency Agreements (not repeated) <i>Ulmer Zak-Kowalczyk</i>	K. Defending against the Trilogly – Contemporaneous Criminal, Civil and Administrative Proceedings <i>Cunningham Kiefer</i>		L. Strategies for Dealing with Special Focus Facility (SFF) Status <i>Littlehale Miles</i>		M. HUD Financing Market <i>Barach Maag</i>
11:00 am– 12:00 noon	N. Disruptive Residents and the Law (not repeated) <i>Goldman Krisztal</i>	O. A Day in the Life of a Hurricane: Surviving Hurricane Ike (not repeated) <i>Impink</i>	P. Legal Ethics: Dodging, Disclosing and Dealing with Client Fraud and Other Misconduct <i>Brown</i>	Q. Identity Theft as New Age Elder Abuse: Compliance with the “Red Flag” Rules <i>Gardner</i>	L. Strategies for Dealing with Special Focus Facility (SFF) Status (repeat) <i>Littlehale Miles</i>	
12:00 noon– 1:30 pm	Lunch on your own or attend the Long Term Care, Senior Housing, In-Home Care and Rehabilitation Practice Group Luncheon (additional fee; limited attendance; pre-registration required – see page 19)					
1:45– 2:45 pm	R. Sexual Issues in a Long Term Care Setting (not repeated) <i>Goldsmith</i>	S. Risk Management Audit: Identifying Tips to Avoid Conflicts <i>Cope Duffy</i>	T. Legal Ethics: Representing Multiple Parties in Healthcare Transactions <i>Pomerance Tettlebaum</i>	U. Ancillary Contracting Update <i>Weaver</i>	V. Reimbursement Compliance Auditing for Long Term Care Providers <i>Markenson Zimmet</i>	

Continued, next page

Program at a Glance

Thursday, February 28, 2009 (continued)

2:55– 3:55 pm	W. Hospice Risk Areas: OIG Risk Areas and the New Hospice Conditions of Participation and Their Impact on Long Term Care (not repeated) <i>Pekarske Selby</i>	X. Home and Community Based Waivers Update (not repeated) <i>Arden Puri</i>	Y. What Every Healthcare Employer (and Their Counsel) Need to Know about the Employee Free Choice Act <i>Walsh</i>	Z. Updating a Nursing Home Compliance Program: Operationalizing Newly Highlighted Risk Areas <i>Hess Sollins</i>	AA. Medicaid Rate Adequacy and Funding Issues for Nursing Facilities <i>Hamme Lubarsky</i>	
Please note the end times of the following sessions						
4:05– 5:05 pm	BB. Patient Safety Organizations (not repeated) <i>Carley</i>	P. Legal Ethics: Dodging, Disclosing and Dealing with Client Fraud and Other Misconduct (repeat) <i>Brown</i>	4:05– 5:35 pm Extended Sessions	B. Survey and Enforcement Update (repeat) <i>Hall Priegnitz</i>	E. Assisted Living Update (repeat) <i>Danaher Meng</i>	F. RACs – Preparing for Their Second Coming and Effective Appeal Strategies (repeat) <i>Rapp Reagan</i>
5:05– 6:30 pm	Reception Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC (attendees, speakers and registered spouses and guests welcome)					

Friday, February 27, 2009

7:00 am– 3:25 pm	Registration and Information				
7:30– 8:30 am	Continental Breakfast Sponsored by PointRight Inc. and Zimmet Healthcare Services Group LLC (attendees, speakers, children, registered spouses and guests welcome)				
8:30– 9:30 am	CC. Update on Long Term Care Life Safety Issues (not repeated) <i>Jaeger</i>	DD. State of Mergers and Acquisitions and Financing Market in Long Term Care <i>Burkett</i>	EE. Quality of Care – It's Not Just for Clinicians Anymore <i>Lax</i>	H. Developing Strategic Relationships between SNFs, Assisted Living and Other Long Term Care and Healthcare Providers in the 21st Century (repeat) <i>Bortz Brockman</i>	Z. Updating a Nursing Home Compliance Program: Operationalizing Newly Highlighted Risk Areas (repeat) <i>Hess Sollins</i>

Continued, next page



Program at a Glance

Friday, February 27, 2009 (*continued*)

9:40– 10:40 am	FF. Telehealth and Remote Monitoring in Assisted Living, Home Care and Hospice (not repeated) <i>Randall</i>	GG. Are Your Documents up for Grabs? <i>Grabowski Horowitz Sanders</i>	HH. Arbitration Clauses in LTC Facility Admission Contracts <i>Latsha Martin</i>	T. Legal Ethics: Representing Multiple Parties in Healthcare Transactions (repeat) <i>Pomerance Tettlebaum</i>	AA. Medicaid Rate Adequacy and Funding Issues for Nursing Facilities (repeat) <i>Hamme Lubarsky</i>
10:50– 11:50 am	JJ. What's New, Different and on the Horizon in Labor and Employment Laws Impacting Long Term Care/ Assisted Living Providers (not repeated) <i>Lyncheski</i>	KK. Regulatory and Private Sector Responses to Ownership Changes in a Changing Climate (not repeated) <i>Senft</i>	K. Defending against the Trilogy – Contemporaneous Criminal, Civil and Administrative Proceedings (repeat) <i>Cunningham Kiefer</i>	U. Ancillary Contracting Update (repeat) <i>Weaver</i>	V. Reimbursement Compliance Auditing for Long Term Care Providers (repeat) <i>Markenson Zimmet</i>
11:50 am– 1:15 pm	Lunch on your own				
1:15– 2:15 pm	M. HUD Financing Market (repeat) <i>Barach Maag</i>	S. Risk Management Audit: Identifying Tips to Avoid Conflicts (repeat) <i>Cope Duffy</i>	DD. State of Mergers and Acquisitions and Financing Market in Long Term Care (repeat) <i>Burkett</i>	EE. Quality of Care – It's Not Just for Clinicians Anymore (repeat) <i>Lax</i>	
2:25– 3:25 pm	Q. Identity Theft as New Age Elder Abuse: Compliance with the "Red Flag" Rules (repeat) <i>Gardner</i>	Y. What Every Healthcare Employer (and Their Counsel) Need to Know about the Employee Free Choice Act (repeat) <i>Walsh</i>	GG. Are Your Documents up for Grabs? (repeat) <i>Grabowski Horowitz Sanders</i>	HH. Arbitration Clauses in LTC Facility Admission Contracts (repeat) <i>Latsha Martin</i>	

Hotel Reservation Form

American Health Lawyers Association

LONG TERM CARE AND THE LAW

February 25-27, 2009

Complete and Send To:

Planet Hollywood Resort & Casino

3667 Las Vegas Boulevard South

Las Vegas, NV 89109

Attention: Reservations Department

Hotel Phone: (702) 785-5555

Reservations Phone: (877) 333-9474

Reservations Fax: (702) 785-5558

Guest Room Rates: Single Occupancy \$179 plus 9% sales tax

Double Occupancy \$179 plus 9% sales tax

Arrival date/time: _____ Departure date/time: _____

Name: _____

Sharing with (if applicable): _____

Company Name: _____

Address: _____

City: _____ State: _____ Zip+4: _____

Business Telephone: _____ Business Fax Number: _____
(area code) (area code)

Email Address: _____
(hotel confirmation information will be sent to you at the email address listed)

Room Requests: Non-smoking Smoking King Bed Double Beds

Special Needs Requests: _____

Check-in: 4:00 pm

Check-out: 12:00 noon

Cancellation policy is 72 hours prior to arrival.

The PLANET HOLLYWOOD requires a first night's deposit of room and tax, per room, to guarantee individual reservations and must be received no later than fourteen (14) days after the reservation is made. PLANET HOLLYWOOD accepts all major credit cards for the deposit and the credit card will be charged for the stipulated room and tax. Guaranteed reservations will be held until 11:00 am on the following date. In the event that a guest who has reserved a guest room within Group's guest room block checks out prior to the guest's reserved checkout date, an early departure fee of \$50.00 will be charged to that guest's individual account. Guests wishing to avoid this fee must advise Resort at or before check-in of any change in the scheduled length of stay.

Card Type/Number: _____ Exp. date: _____

3 Digit Code on Back of Card: _____

Cardholder's Name: _____

Cardholder's Signature: _____

Cardholder's Billing Address w/Zip Code: _____

Reservations received after January 30, 2009 will be accepted on a space-available basis only. Please note that rooms at the group rate are limited, and may be sold out prior to January 30, 2009.

Program Information

Dates: February 25-27, 2009
Place: Planet Hollywood Resort & Casino
 3667 Las Vegas Boulevard South
 Las Vegas, NV 89109
Phone: (702) 785-5555
Reservations: (877) 333-9474
Fax: (702) 785-5511

Registration Fees:

All members of AHLA, AAHSA, AHCA, ALFA, ASHA, and NCAL are entitled to member rates.

Postmarked and paid by January 30, 2009

\$790 For the first Member
 \$715 For each additional Member
 \$690 For In-House Counsel Members
 \$990 Non-Members
 \$550 Non-Attorney Providers

Postmarked and paid between January 31 and February 20, 2009*

\$890 For the first Member
 \$815 For each additional Member
 \$790 For In-House Counsel Members
 \$1090 Non-Members
 \$550 Non-Attorney Providers

* Registration fees increase \$100 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, academicians, solo practitioners and students: please call (202) 833-0766 for special discounted registration fees.

Spouse/Guest Fee: For an additional \$75 spouses and adult guests can register to attend the receptions on Wednesday and Thursday evenings and the breakfasts on Thursday and Friday mornings. Please sign up on the registration form on page 19.

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 17.75 continuing education credits (including 2.0 ethics credit) based on a 60-minute hour and 21.3 credits (including 2.4 ethics credits) based on a 50-minute hour. This seminar will be worth approximately 17.0 nursing home administrator credits.

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. Web site: www.nasba.org. This seminar will be worth approximately 21.0 CPE credits.

There are no prerequisites or advanced preparations required to register for this group live program. Sessions are intermediate or advanced unless otherwise noted. Those seeking accounting credits should be familiar with the concepts of law and terminology associated with the area of long term care in order to obtain the full educational benefit of this program.

Hotel Reservations: Hotel accommodations are not included in the registration fee. To make a reservation call Planet Hollywood Resort & Casino at (702) 785-5555 or use the reservation form found on page 17.

If calling, please indicate that you are attending the AHLA program. Rooms at the group rate are limited and may sell out.

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 and full-time academicians; 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 February 13, 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) 833-0766. Please note that registration fees are based on the 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.

Travel: Association Travel Concepts (ATC) has negotiated discounts with United, American, Enterprise and Avis Rental Car to bring you special fares and car rental rates lower than those available to the public. Some restrictions may apply and a service fee may apply. ATC will search for the lowest available fare on any airline.

ASSOCIATION TRAVEL CONCEPTS

1-800-458-9383

email: reservations@atcmeetings.com

Fax: (858) 362-3153

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

Program Registration Form – Long Term Care

3

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) 833-0766. To register online go to www.healthlawyers.org/programs.

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

All members of AHLA, AAHSA, AHCA, ALFA, ASHA, and NCAL are entitled to member rates

Early Registration Fees (faxed/postmarked and paid on or before January 30, 2009):

Members: \$790 In-House Counsel Members: \$690 Non-Members: \$990
 \$715 each additional member registering from same organization at same time on the same check or credit card payment

Registration Fees (faxed/postmarked and paid between January 31 and February 20, 2009):

Members: \$890 In-House Counsel Members: \$790 Non-Members: \$1090
 \$815 each additional member registering from same organization at same time on the same check or credit card payment
 \$550 Non-Attorney Provider

I will require: audio visual mobility other assistance I have special dietary needs

I am a Member of: AHLA AAHSA AHCA ALFA ASHA NCAL

PAYMENT INFORMATION

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

\$ _____ Registration Fee

\$ _____ Interactive Discussion Group (\$40) (Wednesday, February 25) (please indicate group you plan to attend)

LTC Admission Agreements Assisted Living In-House Counsel
 Survey Appeal Trial Practices Nursing Facility In-House Counsel

\$ _____ Long Term Care, Senior Housing, In-Home Care and Rehabilitation Practice Group Luncheon (\$35 for members of the LTC-SIR PG/\$45 for non-members of the LTC-SIR PG; Thursday, February 26)

\$ _____ Printed Course Materials (\$75)

\$ _____ Spouse/Guest Fee (\$75)

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

\$ _____ Total Enclosed

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

Bill my credit card:    

Number: _____ Exp. Date: /

Name of Cardholder: _____

Signature of Cardholder: _____

ZIP Code of Cardholder's Billing Address: _____

Discounted Registration Fees: Government employees, academicians, solo practitioners and students: please call for special discounted fees.

Please Note: Should your credit card total be miscalculated, AHLA will charge your credit card for the correct amount. To receive a refund of the registration fee paid minus \$125, cancellation notice must be received in writing by February 13, 2009. Please see page 18 of this brochure for AHLA's full refund policy.

Course Materials AHLA is Going Green!

All attendees will receive an electronic version of the full set of course materials for the program (more information on page 16). If you would like to purchase a binder, please indicate that below:

I am registering for the Long Term Care Program and would like to purchase the binder for \$75



AMERICAN
HEALTH LAWYERS
ASSOCIATION

1025 Connecticut Avenue, NW
Suite 600
Washington, DC 20036-5405

Long Term Care and The Law Las Vegas

February 25-27, 2009
Planet Hollywood Resort & Casino
Las Vegas, NV

Register by January 30 and save!
Register online today at
www.healthlawyers.org/programs

Presorted
First-Class Mail
U.S. Postage Paid
Suburban, MD
Permit No. 4841