HEALTH CARE TRANSACTIONS

Planning Committee
John B. Hardcastle, Program Co-Chair
Jay A. Martus, Program Co-Chair
Clevonne M. Jacobs
Carolyn V. Metnick
James F. Owens

Learning Objectives
• The latest developments, strategies, and deal forecasts
• Legal issues involving contemporary health care business transactions, including emerging care models, M&A trends, financing techniques, deal risk management strategies, post integration lessons, and many more
• Critical business considerations before, during, and after the transaction

Sponsors

Exhibitors
Ankura
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PYA
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If you are interested in exhibiting or sponsorship opportunities at this program, please contact veshleman@healthlawyers.org

Hotel Information
JW Marriott Nashville Hotel
201 8th Avenue South
Nashville, TN
(615) 291-8600

Hotel accommodations are not included in the registration fee. AHLA has reserved a block of rooms at the JW Marriott Nashville Hotel at a discounted rate of $289. To make reservations, please call the hotel directly at (615) 291-8600. The group rate cutoff is March 29, 2020 and may sell out prior to this date.
Registration Fees:

Postmarked and paid on or before March 29, 2020

$845 first Member
$770 each additional Member
$1,120 Non-Member

Postmarked and paid between March 30-April 12, 2020*

$995 first Member
$920 each additional Member
$1,270 Non-Member

* Fees increase $100 after this date

Discounts

(Discounts cannot be combined)

$100 off full applicable rate for In-House Counsel and Solo Practitioner

$550 AHLA Academician, Government, Public Interest Professional Member

$700 Government/Academician/Public Interest Professional Non-Member

$425 AHLA One-Day Attendance Member

$560 AHLA One-Day Attendance Non-Member

Practice Group Luncheons

$60 Members of the sponsoring Practice Group(s)

$70 Non-Members of the sponsoring Practice Group(s)

Continuing Education Credit Information

CLE/MCLE: AHLA will be applying for 13.0 credits (including 2.0 ethics credit) for 60-minute states and approximately 15.6 credits (including 2.4 ethics credit) for 50-minute states.

CPE: AHLA will be applying for 16.0 CPE 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 Ave. North, Suite 700, Nashville, TN 37219-2417. NASBA’s website is www.nasba.org.

CCB: AHLA will be applying for 15.6 Compliance Certification Board (CCB) credits.

Participants will be given a link to the Continuing Education Request form. The form must be completed and submitted to AHLA staff to receive credit. The sessions, unless otherwise designated, are intermediate to advance in level. This program is designed to be an update on developments in the area of health care transactions issues. There are no prerequisites or advanced preparations required to register for this group live program. Those seeking accounting credits should be familiar with the basic concepts and terminology associated with health law in order to obtain the full educational benefit of this program.

Membership

Dues are $235 for those admitted to the Bar/graduated from college within the last four years; $355 for those admitted/graduated between four and seven years ago, and $400 for those admitted/graduated eight or more years ago. Dues are $120 for government employees and full-time academicians; $105 for paralegals, $125 for public interest professionals, and $100 for retired professionals. 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 by April 8, 2020 and sent to Dorothy Johnson: djohnson@healthlawyers.org. Registration fee, minus the $150 administrative fee, will be refunded approximately 3-4 weeks following the program in the same form of tender as the original payment. Refunds will not be issued for cancellations received after the cancellation date, to include no-shows.

Substitutions will be accepted, in writing to AHLA (djohnson@healthlawyers.org), up to 2 business days prior to the event date on a one time basis. Note, that the registration fee is based on AHLA membership status of the individual who actually attends the program. Non-member substitutes will be charged the fee difference if they are substituting for a member-discounted registration.

Transfer to an upcoming event within one year of equal or higher value is available on a one time basis only, and should be received in writing to AHLA (djohnson@healthlawyers.org) no later than 2 business days prior to the event. An administrative fee of $150 will be charged for a transfer request.

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.

Spouse/Guest Fee

For an additional $50 spouses and adult guests can register to attend the receptions on Wednesday and Thursday evenings and the breakfasts on Thursday and Friday mornings. Children are welcome to attend these events at no additional charge.

Travel

ATC Travel Management (ATC) has negotiated discounts with Delta, Hertz, and Alamo to bring you special airfares and car rental rates lower than those available to the public. Discounts apply for travel for AHLA 2020 meetings, discounts available 3 days pre/post meeting start/end dates. Restrictions and a service fee may apply. ATC will also search for the lowest available fare on any airline.

ATC TRAVEL MANAGEMENT

1-800-458-9383

email: reservations@atcmeetings.com

ATC is available for reservations from 8:30 am until 8:00 pm Eastern, Monday through Friday.
Sometimes it’s the little things

If you’ve ever stepped on a LEGO® brick, you know this small misstep can produce big reactions. That’s why PYA analyzes every detail of your transaction, no matter how small. For more than 35 years, our experts have guided the nation’s leading healthcare organizations through the transaction process, delivering value while avoiding painful mistakes. We help you spot problems before you feel them, every step of the way.

Sample of Relevant Relationships

Transactions Services

Operational Compliance Assessments | Due Diligence/Quality of Earnings | Strategic Assessments for Partner Selection
Revenue Integrity/Clinical Coding Compliance | Valuation Opinions | Regulatory Approval Assistance
Tax Planning/Compliance | Compliance Program Assessments | Post-Merger Integration Planning/Execution
Monday, April 20, 2020
12:30-5:05 pm
Registration and Information

CONCURRENT SESSIONS

1:30-2:30 pm
A. Overview of the Deal Process—A Roadmap Through the Paper Jungle (Primer) (not repeated)
   Michael F. Schaff
   Alexander D. Sharnoff
   Keith T. Stroup
• Pre-transaction considerations
• Non-disclosure/confidentiality/evaluation material agreements
• Letter of Intent/Term Sheet
• Choosing the Appropriate Acquisition Model
• Valuation and FMV
• Due diligence
• Typical contract provisions
• Hidden risks of Boilerplate Provisions
• Controlling the process and managing expectations
• Post-closing transaction issues

B. Avoiding Cyber-Collisions—Don’t Let Cyber Issues Wreck Your Transaction
   Alisa L. Chestler
   Gerard M. Nussbaum
This presentation will examine current health information technology issues in health care transactions, including:
• How Privacy and Security Diligence is impacting deals, what is asked for, and why
• Negotiation and Deal Structure Considerations, aligning contract language with your clients’ goals
• Consideration technology and cyber risk, breach awareness, ransomware liability
• Managing the ongoing relationship, including Transition Services Agreements

C. Going Vertical: A Deep Dive on Antitrust Analysis in Vertical Mergers
   Scott I. Fitzgerald
   Alexis J. Gilman
   Melissa Hill
This panel will provide an in-depth explanation of the antitrust analysis of vertical mergers, practical guidance on how to analyze such transactions, and will examine recent vertical merger investigations, enforcement actions, and policy guidance by the DOJ, FTC, and state attorneys general, including:
• CVS/Aetna
• CignaExpress Scripts
• United/DaVita
• Fresenius/NxStage
• New draft vertical merger guidelines

2:45-3:45 pm
D. Health Care Due Diligence and Structuring Compliance Considerations for Private Equity Investors (Primer) (not repeated)
   Regina G. Morano
   Danielle M. Sloane
• Why should PE investors care about compliance? A discussion of risk to the entity and upstream owners for health care noncompliance
• Considerations and focus areas in conducting health care diligence before investing in a health care company, including how obtaining reps and warranty insurance impacts the transaction diligence
• Resolving identified noncompliance, and determining whether they need to be resolved pre or post-closing
• Protecting your investment with a solid and effective compliance program

E. Joint Ventures—Preparing for the Best; and the Worst
   Curt R. Hearn
   Jeremy Trahan
• Joint Ventures can be useful forms of legal organization that meet marketplace demand, active capital requirements; develop new products and services
• Joint Ventures can also present numerous legal and practical issues, including regulatory, antitrust, corporate governance

F. Legal Ethics: Managing Expectations and Dispelling Misperceptions—Ethical Issues in Representing Affiliates and Deals
   Terri Wagner Cammarano
   Jim Owens
• Affiliate representation—the key ethics rules that govern your relationship with your corporate client’s subsidiaries and affiliates
• Maximizing the attorney client privilege and mitigating the risk of waiver
• What the Model Rules of Professional Conduct say about conflicts between your client and one of its affiliates
• Managing expectations and ethical issues in joint representations
• What the Anti-kickback statute, the Stark law, and the Internal Revenue Code have to do with your ethical obligations when advising affiliates of your corporate client or acting as “counsel to the deal”

3:45-4:05 pm
Networking and Coffee Break, sponsored by HMS Valuation Group and JTaylor, KPMG

4:05-5:05 pm
G. Health Care Is Local: State AGs add New Wrinkle to Antitrust Review of Health Care Transactions (not repeated)
   Katherine I. Funk
   Tracy W. Wertz
• Recent notable matters where state enforcement approach differs from that of Fed agency
• Issues raised by State enforcers that federal agencies did not
• Anticompetitive effects analysis applied by States
• State legislation that requires additional notification for health care tie ups
• What impact might this additional layer of review mean for health care transactions
• Pre-deal assessment to identifying potential competitive concerns that may cause split in State and Federal approaches.
• Navigating the different approaches

H. Key Issues in Digital Health Transactions
  Suzanne Y. Bell
  Ryan S. Johnson

  • The digital health ecosystem
  • Key business and legal considerations in structuring and negotiating digital health transactions
  • Best practices for due diligence in digital health transactions
  • Negotiating reps and warranties and indemnification provisions in digital health transactions

I. Studying the New Health System and Private Equity Playbooks
  Tara Ravi
  Kristen McDermott Woodrum

  • Private equity investment in physician practices has gained significant momentum in the marketplace, and health systems are now competing more than ever with private equity groups to deliver healthcare specialty services (and not just to acquire physician practices). There are a number of regulatory and business challenges that impede a health system’s ability to acquire or contract with a physician group that is being lured by private equity. Yet, the reputation, size and clinical experience of health systems can be a key advantage. This program addresses legislative changes that may impact the odds and spreads and explores new transaction strategies in the health system and private equity playbooks.
  • Monday morning QB. Lessons learned. Key considerations in negotiating next generation transactions and exits

Tuesday, April 21, 2020
7:00 am-5:05 pm
Registration and Information
7:00-7:50 am
Networking Breakfast and Table Topic Discussions, hosted by AHLA’s Women’s Leadership Council
This event is not included in the program registration fee. Attendees, faculty, and registered spouses and guests welcome.
7:00-8:00 am
Continental Breakfast, sponsored by HORNE LLP and Veralon
This event is included in the program registration fee. Attendees, faculty, and registered spouses and guests welcome.

8:00-8:15 am
Welcome and Introduction
S. Craig Holden
John B. Hardcastle
Jay A. Martus

8:15-9:15 am
The Continuing Shift Toward Outpatient Services, Innovative Payment Methods, and the Relentless Drive Toward Value
Tom Wylly (Moderator)
Lauren Brueggen
Tim Buono
Clay Richards

5:05-6:05 pm
Networking and Diversity+ Inclusion Reception, sponsored by PYA
This event is included in the program registration fee. Attendees, speakers, and registered spouses and guests welcome.

9:15-9:45 AM
Coffee Break, sponsored by HMS Valuation Group, JTaylor and KPMG

9:45-10:45 AM
J. The Art of the Term Sheet (Primer) (not repeated)
David A. DeSimone
John R. Washlick

K. Carve it Out, Cook it Up and Serve! Joint Ventures and Other Arrangements Involving Hospital Service Lines
Patrick S. Cross
W. James Lloyd

• Hospitals are increasingly evaluating opportunities to carve out entire service lines that are subsequently contributed
to a new for-profit joint venture with a third-party management company. These joint ventures may involve nonprofit and for-profit organizations, and increasingly involve private equity firms. Some of the motivating factors influencing hospitals to consider entire service line joint ventures include priorities for capital allocation, poor operating performance, lack of clinical or management resources or expertise, lack of capital needed for key investments in technology, etc.

• Service line joint ventures can make good economic sense under certain circumstances but also involve substantial risks; accordingly, a great deal of planning, diligence and analysis is typically required to be successful

• This presentation will include a detailed discussion of the various legal and valuation issues typically encountered in connection with hospital service line joint ventures, including:
  - Hospital service line transactions
  - Transaction structure and governance issues
  - Tax-exempt organization issues, including private benefit and UBIT
  - Determining the fair market value of the service line being contributed
  - Evaluating whether the joint-venture interest received by the hospital will likely be worth more than the assets contributed
  - Third-party payer contracting issues, and related antitrust issues
  - Managing the financial and reputational risks to the hospital
  - Fair market value compensation issues related to MSAs, PSAs, support services and similar arrangements typically utilized in connection with such joint venture arrangements
  - Co-branding and similar intellectual property license issues
  - Transition and termination issues
  - Case study

L. Private Equity and Private Equity-Like Models: Market Realities for these Transactions

Thomas D. Anthony
James Max Reiboldt

• Review of PE transactions—the good, the bad, and the ugly
• Alternatives to PE transactions
• Market realities of PE transactions
• Hospital responses to PE transactions (i.e. “PE-like” models)
• Attractions to PE transactions
• Specialties
• ASCs
• Imaging Centers
• Telemedicine
• Other health care consortiums (e.g. MSOs, GPOs, etc.)

M. Joint Operating Agreements: Practical Considerations and Antitrust Risk Strategies for Health System Counsel

William E. Berlin
Jeffrey S. Bromme
Christine K. McCoy

• The numerous practical considerations (both pros and cons) for health systems in choosing the JOA structure versus a full merger or other form of affiliation, including: retaining control/reserved powers; financial issues; ethical religious directives (ERDs); flexibility and the ability to unwind or expand to a full affiliation; integrating only specific service line(s) rather than entire hospitals/systems; and other issues
• In addition to these formational issues, there are various operational issues unique to JOAs, particularly related to payor contracting as a single entity and information sharing/firewalls, which raise additional antitrust considerations
• For both structural and operational issues, this panel will use real-world examples based on the panel’s actual experience with JOAs

• Despite the current predominance of JVs and JOAs as the structural form of hospital and health system affiliations, there is very little caselaw or other enforcement agency guidance regarding these entities. In one of the few published cases, Medical Center at Elizabeth Place v. Premier Health Partners, a federal district court in Ohio and the 6th Circuit Court of Appeals issued a series of opinions addressing the legality of the structure and operation of a JOA formed by four Dayton area hospitals that both clarified and confused the antitrust analysis applicable to JVs and JOAs. This panel will unwind those decisions to outline the legal standards applicable to JOAs going forward

11:00 am-12:00 noon

N. The Evolution of the Use of Representation and Warranty Insurance in Health Care Transactions

Kate L. Bechen
Vipul Patel

• Representation and Warranty Insurance
• How Representation and Warranty Insurance policies intersect with the deal process and definitive agreements
• The contractual nuances of Representation and Warranty Insurance
• Recent claims experience
• Current use trends in Health Care Transactions

O. Consummating a Fair Deal: Realignment in Joint Ventures

Daniel Platten
Mary H. Richard

• Case study of a realignment of parties in a hospital’s surgery practice joint venture due to a separate proposed transaction by one of the JV partners
• Negotiations and legal strategies amidst a lack of transparency between parties
• How to ultimately relinquish something of value in order to consummate deal (e.g., Waiver of non-compete agreement)
• How to value a waiver of non-compete agreement: financial analysis and quantification alternatives
• Probability weighted expected return method
• Option pricing methodology
• Monte Carlo simulation
• Guidance for buyers and sellers counsel:
  • Exposing and disposing of conflicts of interest and lack of transparency
• Legal and strategy implications in the face of diverse objectives

P. Buy, Build or Invest—A Wanna Be Distruptor’s Guide to the New Health Care Models
Marc D. Goldstone
Sarah E. Swank
• What it means to be a “disruptor”
• A historical and current overview of disruptive models and technologies in health care from ACOs and flu shot clinics with yoga classes to digital health, population health, big data, and AI
• Disruptive models and where venture capital, health systems and start ups is investing, buying, sell and creating new models and technologies
• Strategies for health systems and organizations to adopt to disruptive models and technologies, including buying, investing or building their own technologies
• The role of the attorney in guiding discussions and advise, including discussions of pitfalls and opportunities with business leaders and the board.
• What the disruptors outside of health care should know about health care to affiliate, sell or compete with health care organizations

C. Going Vertical: A Deep Dive on Antitrust Analysis in Vertical Mergers (repeat)

12:00 noon—1:15 pm
Lunch on your own or attend the Business Law and Governance Practice Group Luncheon, sponsored by Lovell Communications

Will My Merger or Acquisition be Approved? Real World Answers to Tough Antitrust Questions
David Dahquist
This event is not included in the program registration fee. Attendance is limited; additional fee; pre-registration required. Continuing Education Credits are not available for the luncheon.

CONCURRENT SESSIONS

1:30—2:30 pm
Q. Wag the Dog: Unique Medicare Enrollment Issues that Drive Transaction Structure
(not repeated)
Travis G. Lloyd
In the course of negotiating a deal, Medicare enrollment considerations are too often an afterthought. Dealmakers often rely on rules of thumb as to the effect of a transaction on a provider or supplier’s Medicare enrollment. Yet, there are a number of situations in which standard logic does not apply. This presentation will explore a handful of these unique circumstances, including the following:
  • Effects of transactions on grandfathered payment statuses
  • Transition billing arrangements following changes of ownership
  • Hospital acquisitions followed by combination into an existing hospital
  • Hospitals closures and suspensions of service
  • Changes of ownership for ambulatory surgery centers
  • Application of the 36-month rule for home health agencies

R. What Every General Counsel Needs to Know About Antitrust Planning for Transactions
Ashley M. Fischer
Christine L. White
John P. Wiegand
• Structuring your transaction
• Ancillary restraints post-closing
• Planning for your transaction
• Government review
• Implementation pre- and post- closing
• Legal updates

I. Studying the New Health System and Private Equity Playbooks (repeat)

N. The Evolution of the Use of Representation and Warranty Insurance in Health Care Transactions

2:30—2:50 pm
Network and Coffee Break, sponsored by HMS Valuation Group, J Taylor, and KPMG

2:50—3:50 pm
S. Analyzing Losses of Employed Networks: A Case Study of a Public Hospital
(not repeated)
Joe W. Campbell
Elizabeth Simpson
• How we verified physician network losses were considered acceptable and identified areas of opportunity
• Importance of revisiting the “why” of employment arrangements and validating those circumstances still exist
• Being proactive by engaging your board in detailed physician network conversations
• Addressing the elephant in the room: Downstream revenue

T. Health System Alignment and Growth: Making Strategy a Reality
Shelby Decosta
Anne K. Garcia
Torrey J. McClary
• The unique and varying perspectives of the Chief Strategy Officer of a Top 10 medical center (UCSF), the chief legal officer of a prestigious academic medical center (OSU Wexner) and nationally-recognized health-care transactions outside counsel (K&S)
• Recommendations for developing and executing on health systems strategic objectives so they can compete effectively in their markets and provide access to top quality patient care at a reasonable cost
• The practical realities of structuring, negotiating, completing, and implementing innovative partnerships with other health care providers, such as affiliations, collaborations, joint operating agreements and joint ventures
• Real-world stories about the challenges and successes of recent transactions, including the formation of Healthy State Alliance, a high-profile statewide affiliation between the OSU-Wexner and Bon Secours Mercy health systems, and UCSF Health’s existing and developing relationships with other health care providers in the bay area

U. Real Estate Issues in Health Care M&A
Vikas M. Sunkari
Joel D. Swider
Ryan Vlcko

This program will discuss common pitfalls in handling real estate as part of a larger M&A transaction, including:

• How to address potential real estate concerns on the front end in the letter of intent and definitive agreement
• Common issues that arise in the due diligence process and how to resolve them, including issues with title, property taxes, property condition, and lease assignments
• What to watch out for (and contract for) when navigating health care regulatory concerns
• How the deal structure and goals of the parties will dictate real estate strategy

F. Legal Ethics: Managing Expectations and Dispelling Misperceptions—Ethical Issues in Representing Affiliates and Deals (repeat)

4:05-5:05 pm

V. Current Considerations in Physician Practice Acquisitions Transactions (Case Study: Eye Care Transactions)
Tamara Senikidze

• Structuring the deal
  – MSO-PC Model/CPOM versus direct investment
  – Asset versus stock deal
  – Tax implications
  – Regulatory submissions and filings
  – Payer restrictions
• Health care considerations for deal documents
  – Purchase agreement
  – Administrative services agreement
  – Continuity planning agreement
  – Provider employment agreements
  – Independent contractor agreements
• Post-closing considerations
  – Compliance (new platform v. add-on)
  – CHOW
  – Investor/practice alignment
• Special Considerations for Eye Care Transactions:
  – Referral relationships with optometrists and/or ophthalmologists
  – Co-management
  – Drug injections and choice
  – Ancillary services (e.g. ambulatory surgical centers and optical shops)
  – Delivery of eye care through telemedicine

W. Navigating the Danger Zone: Transactional Decisions for Hospitals in Distress
Steve Clapp
Andrea M. Ferrari
Clevonne M. Jacobs

Throughout the United States, the number of hospitals facing financial distress has been on the rise. Distress typically brings with it certain transactional decisions, from changing or renegotiating with vendors to restructuring and/or affiliation in an effort to regain solvency, to dissolution and sale of assets. For any entity, but particularly one in distress, the decisions may involve some complex legal and regulatory questions, some of which may be questions of first-impression for the deal lawyers and stakeholders. Our panel will discuss several hypothetical and real-life case studies of transactional activities of hospitals in distress to explore:

• The legal and regulatory “danger zones” in transaction planning for entities in distress, including labor and contracting issues and value questions in an environment of known unknowns
• Weighing the options for the hospital in distress, including for-profit, not-for-profit and government affiliations, collaborations and sales transactions and what questions and issues they raise for hospitals in distress
• Framework for making transactional decisions and deciding among options in the current regulatory and business environment including the lessons from CMH Liquidating Trust v. Community Memorial Hospital d/b/a Cheboygan Memorial Hospital and other similar cases of alleged officer and director liability for negligent transactions
• Real-life stories of transactional decisions that had a different outcome than hoped or expected, and what can be learned from them

L. Private Equity and Private Equity-Like Models: Market Realities for these Transactions (repeat)

P. Buy, Build or Invest–A Wanna Be Disturper’s Guide to the New Health Care Models (repeat)

5:05-6:05 pm

Networking Reception, sponsored by PYA

This event is included in the program registration fee. Attendees, speakers, and registered spouses and guests welcome.

Wednesday, April 22, 2020
7:00 am-12:45 pm
Registration and Information
7:00-8:00 am
Continental Breakfast, sponsored by HORNE LLP and Veralon

This event is included in the program registration fee. Attendees, faculty, and registered spouses and guests welcome.
- Driving forces prompting rural hospital affiliations and partnerships
- Prominent and cutting-edge models to address behavioral health in rural areas, including partnerships to use hospital space to house behavioral health programs, community partnerships to deliver specialty care, and support and address post-discharge follow-up care, and reduction of avoidable emergency department use
- Common legal issues and business/valuation considerations across these different types of health care transactions and their interaction with securing potential funding and partners
- Best practices and tips for how rural hospitals can demonstrate value to potential investors and partners, including how to evaluate community need, capacity creation, and the potential for profit sharing, and how to show viability of behavioral health programs in rural hospital settings

Y. Evolving Landscapes: Vertical and Horizontal Integration in Post-Acute Care and Hospital Transactions
Margaret J. Davino  
Latoya Dawkins
In response to the ubiquitous influence of value-based payment reform, e.g. such as bundled payments, hospitals across the country as well as post-acute care and home health and hospice entities are focusing on transactions that improve their home health care, patient and provider experience, improve care coordination, reduce readmissions and spending. This program will review and discuss the practical issues that health care entities must consider in mergers, acquisitions or affiliations that vertically or horizontally integrate healthcare, including:
- Reasons for integration: Practical, financial, operational, strategic and legal
- Examples of both horizontal and vertical integration across the country

R. What Every General Counsel Needs to Know About Antitrust Planning for Transactions

Z. Ethical Conflicts: What They Are and How to Avoid Them
Dawn R. Crumel  
Kim Harvey Looney
- What makes a conflict non-waivable?
- When does an attorney have to decline or withdraw from representation?
- What conflicts arise with joint representation?
- When is it permissible to have an advance conflict waiver and what can make them problematic?
- What if an attorney wants to engage in a business transaction with a client?

H. Key Issues in Digital Health Transactions (repeat)

M. Joint Operating Agreements: Practical Considerations and Antitrust Risk Strategies for Health System Counsel (repeat)

V. Current Considerations in Physician Practice Acquisitions Transactions (Case Study: Eye Care Transactions) (repeat)

10:30-11:30 am

AA. Combining Provider-Owned Health Plans—Risks, Tips, and a Case Study
Jed A. Roher  
Christine C. Senty
Combinations of provider-owned health plans can create powerful synergies and market opportunities that benefit both the provider-owners and the health plans. However, these combinations raise a number of legal and operational issues that in-house and external counsel need to navigate. In this panel, we will discuss:
- Tax issues related to the tax-exempt and taxable status of the provider-owners and the health plans
- Antitrust considerations
- Governance and strategic planning: The role of the provider-owners, the governing body of the health plans, and health plan management
- Merging cultures: Differences in patient care employees and managed care employees, and how to bring the two together collaboratively
- The labyrinth of documents and regulatory approvals (tips for drafting and filing)
- A case study in provider-owned health plan consolidation
DON’T REACT TO CHANGE. CREATE IT.

It’s time to think differently about the business of healthcare. Let’s work together to see what’s possible.
### Program Schedule

**Monday, April 20, 2020**

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Stroup  
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Chestler  
Nussbaum  
C. Going Vertical: A Deep Dive on Antitrust Analysis in Vertical Mergers  
Fitzgerald  
Gilman  
Hill |
| 2:45-3:45 pm  | D. Health Care Due Diligence and Structuring Compliance Considerations for Private Equity Investors (Primer) (not repeated)  
Morano  
Sloane  
E. Joint Ventures—Preparing for the Best; and the Worst  
Hearn  
Trahan  
F. Legal Ethics: Managing Expectations and Dispelling Misperceptions—Ethical Issues in Representing Affiliates and Deals  
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Owens |
| 3:45-4:05 pm  | Networking and Coffee Break, *sponsored by HMS Valuation Group*, JTaylor, KPMG |
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Funk  
Wertz  
H. Key Issues in Digital Health Transactions  
Bell  
Johnson  
I. Studying the New Health System and Private Equity Playbooks  
Ravi  
Woodrum |
| 5:05-6:05 pm  | Networking and Diversity+Inclusion Reception, *sponsored by PYA*  
(This event is included in the program registration fee. Attendees, speakers, and registered spouses and guests welcome) |
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<td>8:00-9:15 am</td>
<td><strong>GENERAL SESSION</strong></td>
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<td>8:00-8:15 am Welcome and Introduction</td>
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<td>Holden, Hardcastle, Martus</td>
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<td>8:15-9:15 am</td>
<td>The Continuing Shift Toward Outpatient Services, Innovative Payment Methods, and the Relentless Drive Toward Value</td>
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<td>Wyllie (Moderator), Brueggen, Buono, Richards</td>
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<tr>
<td>9:15-9:45 AM</td>
<td>Coffee Break, sponsored by HMS Valuation Group, JTaylor, KPMG</td>
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<td>9:45-10:45 AM</td>
<td>J. The Art of the Term Sheet (Primer) (not repeated)</td>
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<td>DeSimone, Washlick</td>
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<td>K. Carve it Out, Cook it Up and Serve! Joint Ventures and Other Arrangements Involving Hospital Service Lines</td>
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<td>Cross, J. Lloyd</td>
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<td>L. Private Equity and Private Equity-Like Models: Market Realities for these Transactions</td>
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<td>Anthony, Reiboldt</td>
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<td></td>
<td>M. Joint Operating Agreements: Practical Considerations and Antitrust Risk Strategies for Health System Counsel</td>
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<td>Berlin, Bromme, McCoy</td>
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<tr>
<td>11:00 am-12:00 noon</td>
<td>N. The Evolution of the Use of Representation and Warranty Insurance in Health Care Transactions</td>
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<td>Bechen, Patel</td>
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<td>O. Consummating a Fair Deal: Realignment in Joint Ventures</td>
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<td>Platten, Richard</td>
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<td>P. Buy, Build or Invest—A Wanna Be Distruptor’s Guide to the New Health Care Models</td>
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<td>Goldstone, Swank</td>
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<td>C. Going Vertical: A Deep Dive on Antitrust Analysis in Vertical Mergers (repeat)</td>
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<td>Fitzgerald, Gilman, Hill</td>
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### Tuesday, April 21, 2020 (continued)

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
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</table>
| 12:00 noon-1:15 pm | Lunch on your own or attend the Business Law and Governance Practice Group Luncheon, **sponsored by Lovell Communications**  
**Will My Merger or Acquisition be Approved? Real World Answers to Tough Antitrust Questions**  
Dahlquist  
(This event is not included in the program registration fee. Attendance is limited; additional fee; pre-registration required. Continuing Education Credits are not available for the luncheon.) |
| 1:30-2:30 pm | Q. Wag the Dog: Unique Medicare Enrollment Issues that Drive Transaction Structure  
(not repeated)  
(continued)  
T. Lloyd  
R. What Every General Counsel Needs to Know About Antitrust Planning for Transactions  
Fischer  
White  
Wiegand  
I. Studying the New Health System and Private Equity Playbooks  
Ravi  
Woodrum  
N. The Evolution of the Use of Representation and Warranty Insurance in Health Care Transactions  
Bechen  
Patel |
| 2:30-2:50 pm | Networking and Coffee Break, **sponsored by HMS Valuation Group, JTaylor, KPMG** |
| 2:50-3:50 pm | S. Analyzing Losses of Employed Networks: A Case Study of a Public Hospital  
(not repeated)  
Campbell  
Simpson  
T. Health System Alignment and Growth: Making Strategy a Reality  
Decosta  
Garcia  
McClary  
U. Real Estate Issues in Health Care M&A  
Sunkari  
Swider  
Vicko  
F. Legal Ethics: Managing Expectations and Dispelling Misperceptions—Ethical Issues in Representing Affiliates and Deals  
(repeat)  
Cammarano  
Owens |
| 4:05-5:05 pm | V. Current Considerations in Physician Practice Acquisitions Transactions  
(Case Study: Eye Care Transactions)  
(repeat)  
Senikidze  
W. Navigating the Danger Zone: Transactional Decisions for Hospitals in Distress  
Clapp  
Ferrari  
Jacobs  
L. Private Equity and Private Equity-Like Models: Market Realities for these Transactions  
(repeat)  
Anthony  
Reiboldt  
P. Buy, Build or Invest—A Wanna Be Distruptor’s Guide to the New Health Care Models  
(repeat)  
Goldstone  
Swank |
| 5:05-6:05 pm | Networking Reception, **sponsored by PYA**  
(This event is included in the program registration fee. Attendees, speakers, and registered spouses and guests welcome) |
### Program Schedule

**Wednesday, April 22, 2020**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Speakers</th>
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<tbody>
<tr>
<td>7:00 am-12:45 pm</td>
<td>Registration and Information</td>
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<tr>
<td>7:00-8:00 am</td>
<td>Continental Breakfast, sponsored by HORNE LLP and Veralon</td>
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<td>(This event is included in the program registration fee. Attendees, faculty, and registered spouses and guests welcome)</td>
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<td><strong>X. Rural Hospital Strategies to Address Behavioral Health Needs: Engaging Investors and Community Partners</strong> (not repeated)</td>
<td>Flume, Gunville, Whites</td>
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<td></td>
<td><strong>Y. Evolving Landscapes: Vertical and Horizontal Integration in Post-Acute Care and Hospital Transactions</strong></td>
<td>Davino, Dawkins</td>
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<td><strong>E. Joint Ventures–Preparing for the Best; and the Worst (repeat)</strong></td>
<td>Hearn, Trahan</td>
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<td><strong>R. What Every General Counsel Needs to Know About Antitrust Planning for Transactions (repeat)</strong></td>
<td>Fischer, White, Wiegand</td>
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<tr>
<td>8:00-9:00 am</td>
<td><strong>Z. Ethical Conflicts: What They Are and How to Avoid Them (not repeated)</strong></td>
<td>Crumel, Looney</td>
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<td></td>
<td><strong>H. Key Issues in Digital Health Transactions (repeat)</strong></td>
<td>Bell, Johnson</td>
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<td></td>
<td><strong>M. Joint Operating Agreements: Practical Considerations and Antitrust Risk Strategies for Health System Counsel (repeat)</strong></td>
<td>Berlin, Bromme, McCoy</td>
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<td><strong>V. Current Considerations in Physician Practice Acquisitions Transactions</strong> (Case Study: Eye Care Transactions)**</td>
<td>Senikidze</td>
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<tr>
<td>9:15-10:15 am</td>
<td><strong>AA. Combining Provider-Owned Health Plans–Risks, Tips, and a Case Study (not repeated)</strong></td>
<td>Roher, Senty</td>
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<td><strong>O. Consummating a Fair Deal: Realignment in Joint Ventures (repeat)</strong></td>
<td>Platten, Richard</td>
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<td><strong>U. Real Estate Issues in Health Care M&amp;A (repeat)</strong></td>
<td>Sunkari, Swider, Vlcko</td>
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<td><strong>W. Navigating the Danger Zone: Transactional Decisions for Hospitals in Distress (repeat)</strong></td>
<td>Clapp, Ferrari, Jacobs</td>
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<tr>
<td>10:30-11:30 am</td>
<td><strong>B. Avoiding Cyber-Collisions–Don’t Let Cyber Issues Wreck Your Transaction (repeat)</strong></td>
<td>Chestler, Nussbaum</td>
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<tr>
<td></td>
<td><strong>K. Carve it Out, Cook it Up and Serve! Joint Ventures and Other Arrangements Involving Hospital Service Lines (repeat)</strong></td>
<td>Cross, J. Lloyd</td>
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<td>Decosta, Garcia, McClary</td>
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<td>11:45 am-12:45 pm</td>
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<td><strong>Y. Evolving Landscapes: Vertical and Horizontal Integration in Post-Acute Care and Hospital Transactions (repeat)</strong></td>
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</table>
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