The American Health Lawyers Association is pleased to offer the 2016 Physicians and Hospitals Law Institute. This 2 1/2 day program will include a number of breakout sessions that will focus on legal challenges faced by physicians and their counsel, the legal challenges faced by hospitals and health systems and their counsel, and the legal issues of interest to both segments of the health care delivery system.

All materials will be available on a website prior to the program and handed out on flash drive at the program. For those who still do want the binders they will be available for an additional fee; please order on the registration form on page 19.

Attendees will learn about the following:
❯❯ Current enforcement efforts and their impact on physicians, hospitals, and health systems
❯❯ ACA implementation challenges for providers
❯❯ Regulatory developments and considerations
❯❯ Structuring integration models and delivery systems

This year’s program will be held at Hilton Austin Hotel. Hotel accommodations are not included in the registration fee. Call Hilton Hotel at (512) 482-8000. If calling, please indicate that you are attending the AHLA program. Rooms at the group rate of $229 single/double occupancy are limited and may sell out prior to January 15, 2016.

We look forward to seeing you in Austin, TX!

Exhibitors
AHLA would like to thank the following companies for their support of the program and encourages attendees to visit their exhibit booths:
❯❯ Altegra Health
❯❯ Carnahan Group
❯❯ Blue & Co., LLC
❯❯ CBIZ Healthcare Valuation
❯❯ Coker Group
❯❯ Compliance Consortium, LLC
❯❯ ECG Management Consultants
❯❯ HealthCare Appraisers, Inc.
❯❯ HORNE LLP
❯❯ MediTract, Inc.
❯❯ Ntracts, LLC
❯❯ Pinnacle Healthcare Consulting
❯❯ PYA
❯❯ Veralon
Sunday, February 7, 2016
5:00-7:00 pm  
Registration and Information

Monday, February 8, 2016
7:00 am-5:30 pm  
Registration and Information

GENERAL SESSION
8:00-8:15 am
Welcome and Introduction  
Charlene L. McGinty, AHLA President-Elect  
Lisa J. Gilden, Program Co-Chair  
Michael F. Schaff, Program Co-Chair

8:15-9:45 am
Year in Review  
Elizabeth B. Carder-Thompson  
Jack S. Schroder, Jr.

9:45-10:15 am
Coffee break, sponsored by CBIZ Healthcare Valuation and HealthCare Appraisers, Inc.

CONCURRENT SESSIONS
10:15-11:15 am
A.  Regulations and Policies Affecting a Physician’s Prescribing Authority (not repeated)  
Angelo J. Cifaldi  
Lisa English Hinkle

B.  Zen and the Art of Representing Hospital-Based Physician Groups  
Ann M. Bittinger  
Jay A. Martus

C.  Responding to HIPAA Breaches: How to Avoid or Minimize Liability  
Matthew Soskins  
Kim C. Stanger

D.  Not Your Grandfather’s Payment: Value-Based Payments, Medicare, and Beyond  
Ellie Bane  
Eric Zimmerman

E.  The Evolution of Value-Based Compensation Using Clinically Integrated Networks:  
Albert “Chip” Hutzler  
John R. Washlick

F.  Retail Medicine: Bad for Doctors and Hospitals or Something They Should Embrace? (not repeated)  
Heidi S. Allen  
Peter A. Pavarini  
Michael F. Schaff

G.  340B Hospitals: Anticipating and Responding to Evolving Compliance Standards and Audits in Wake of Proposed 340B Mega Guidance and Orphan Drug Ruling  
Alan J. Arville  
Christine M. Morse

Impact of HRSA’s Proposed 340B Drug Pricing Program Omnibus Guidelines (the “Proposed Mega Guidance”) on hospital covered entities

Compliance with state Medicaid billing policies and impact of the Proposed Mega Guidance and proposed CMS rules on Medicaid managed care duplicate discounts
Program Agenda

12:30-1:45 pm
Lunch on your own or attend a Practice Group Luncheon: Health Care Liability and Litigation, Hospitals and Health Systems, In-House Counsel Practice Groups and Enterprise Risk Management Task Force (joint luncheon), sponsored by Sullivan, Cotter and Associates, Inc. OR Labor and Employment
(additional fee; limited attendance; pre-registration required; more information on page 16; register on page 19)

2:00-3:00 pm
L. Will You Be My Friend (and Can I Be Your Lawyer)? Legal Ethics and Social Media for the Health Care Lawyer (not repeated)
William W. Horton
Kim Harvey Looney

Michael A. Cassidy
Robert R. Harrison

The requirements for reporting a physician who surrenders privileges while under investigation
The interpretation of proctoring as a "restriction of privileges" whenever the proctor is required to scrubbed and in the room for observational purposes, even if that proctor is not authorized to intervene in the care of the patient
The inability of a multi-hospital system with centralized credentials verification services to share an NPDB report among its affiliated hospitals
The requirement that hospital queriers who have received summary suspension reports that are the subject of subsequent void reports must destroy the prior reports
The state reporting obligations that include the duty to report actions of the patient
The various issues typically negotiated with the physician practice (e.g., incremental expenses, tax impact, employment requirements)

K. IRS Audits of Health Care Organizations—"Show Me the Money"
Gerald M. Griffith
Robert F. Waitkus

Top ten hot audit issues for nonprofit health care and how to avoid them
How the ACA and Section 501(r) impact audit risks
Ripple effect on operations of compensation and joint venture audit outcomes
Law vs. tax, when does one trump the other?
Managing the audit process

H. Effective and Compliant Utilization of Nurse Practitioners and Physician Assistants
David J. Hyman
Alex T. Krouse

NPs and PAs are increasingly responsible for direct patient care across the country, in many instances without physician involvement. In many ways, due to the physician shortage in primary care, NPs and PAs are being looked to as a solution to further expand access to primary care providers. This presentation will highlight the increased utilization of NPs and PAs and the following issues:

The qualifications, differences, and quality of care comparison with physician care of Nurse Practitioners and Physician Assistants
An understanding of collaborative vs. supervised vs. independent practice of Nurse Practitioners and Physician Assistants and its impact on utilization of these providers
Reimbursement and compensation issues including how Nurse Practitioner and Physician Assistant utilization impacts the Anti-Kickback Statute, Stark Law, and fair market value analyses
The future utilization of Nurse Practitioners and Physician assistants and the impact this will have on primary care networks

J. The Legal and Practical Aspects of Physician Recruitment—A Case Study
Linda Remer
Darren Skyles

The laws and regulations (e.g., Stark and Anti-Kickback) pertaining to physician recruitment
Case study of a medium-sized health care provider located in west Texas and its method of negotiating and contracting with physicians in varying stages of the recruitment process, from the offering of stipends to residents, to the negotiating of the income assistance agreement, and to the repayment through forgiveness
The tax implications of income assistance as to the hospital, the physician, and the practice which employs the physician and the strategies for communicating the same
The various issues typically negotiated with the physician practice (e.g., incremental expenses, tax impact, employment requirements)

I. IRS Audits of Health Care Organizations—"Show Me the Money"
Gerald M. Griffith
Robert F. Waitkus

Top ten hot audit issues for nonprofit health care and how to avoid them
How the ACA and Section 501(r) impact audit risks
Ripple effect on operations of compensation and joint venture audit outcomes
Law vs. tax, when does one trump the other?
Managing the audit process

Meaningful use, the E-Prescribing program, and Medicare’s physician compare website
Recent changes in Medicare reimbursement for physicians, including the value-based payment modifier, and changes resulting from the recently passed MACRA law
Non-federal payment initiatives (e.g., bundled payment programs, PCMH, etc.)
Program Agenda

3:15-4:15 pm

Q. Landmines and Lifesavers in Your Managed Care Contract
   (not repeated)
   Mark S. Kopson
   ▶ Termination—the long goodbye or break up to make up
   ▶ Third parties—yours, mine and theirs?
   ▶ Liability and indemnification—I’m paying for what?
   ▶ Financial risk—how low can you go?
   ▶ Amendment—still the same... just different

R. Physicians in the Crosshairs: Effective Strategies for Dealing with Recent Enforcement Trends Involving Physician-Related Fraud
   Anna M. Grizzle
   Jerry Williamson
   ▶ Lessons learned from recent enforcement actions and government enforcement priorities involving physician compensation, documentation, retention of overpayments, and quality incentive matters
   ▶ The impact of technology and data analytics on these enforcement priorities
   ▶ Effective strategies and best practices for navigating compliance and enforcement issues involving physicians and dealing with government regulators

S. Labor Laws in Hospitals and Health Systems: Taking Your Legal Temperature
   Shannon D. Farmer
   John Lasky
   ▶ Preparing for the new NLRB ambush election rules in the health care setting including: Determining who are supervisors; an appropriate bargaining unit when there are multiple sites of employment in close proximity such as clinics and physician practices; and the appropriate-ness of micro-units
   ▶ Permissible regulation on employee actions in patient care areas, including solicitation and distribution of materials and wearing of buttons and insignia
   ▶ Preparation for and limits on strikes and picketing at health care facilities
   ▶ Impact of recent National Labor Relations Board confidentiality rulings in the health care workplace
   ▶ Developing effective labor relations in the health care setting

T. Evaluating Recent Regulatory Developments: Remembering the Fundamentals—It’s Where the Rubber Meets the Road
   Timothy P. Blanchard
   Louise M. Joy
   ▶ Reimbursement policy developments
     ▶ Interpretations regarding provider-based requirements
     ▶ Proposals and interpretations regarding Incident-to-Rules
   ▶ Survey and certification developments
     ▶ Is QAPI the source of all deficiencies?
     ▶ Immediate jeopardy interpretations
     ▶ Systems improvement agreements
   ▶ Program integrity developments
     ▶ “Recalcitrant Providers’” policy
     ▶ Readmissions reduction initiatives

U. The Doctor Will See You Virtually: Telemedicine and E-Visits
   Cori Hook Loomis
   Teresa A. Williams
   ▶ Regulatory and compliance issues, regulatory overlap
   ▶ State law requirements and case law impact
   ▶ Establishment of physician-patient relationship
   ▶ Due diligence considerations for telemedicine transactions
   ▶ Tips on successful implementation

4:30-5:30 pm

V. The Strategic Advantages of ADR in Health Care Employment Disputes: Risk Avoidance, Value Proposition, and Just Good Business Sense (not repeated)
   Maria Greco Danaher
   Geoff Drucker
   ▶ Baseline for the development and practical implementation of ADR provisions in employment agreements, practice policies, and handbooks
   ▶ Recent court decisions from state and federal courts and discuss their applicability—with input and comment from participants—to specific fact scenarios in the implementation of ADR provisions
Program Agenda

5:30-6:30 pm  
Networking and Diversity+Inclusion Reception, sponsored by HORNE LLP, Hosted by AHLA’s Diversity+Inclusion Council  
(attendees, faculty, and registered spouses and guests welcome; more information on page 16)

Tuesday, February 9, 2016

7:00-8:15 am  
Continental Breakfast, sponsored by PYA  
(attendees, faculty, and registered spouses and guests welcome)

7:00-8:15 am  
Networking Breakfast: Kiss My Glass...Ceiling: How Professional Relationships Help Women Break Through, sponsored by ECG Management Consultants, Hosted by the Women’s Leadership Council  
(attendees and faculty welcome; attendance is limited; pre-registration required; more information on page 16; register on page 19)

8:30-9:30 am  
AA. Have You Thought of Everything? Key Legal, Compliance, Governance, Operational and Practical Considerations for a Clinical Research Programs in the Community Hospital and Physician Group Practice  
Leah B. Guidry  
Leah A. Voigt

5:00-6:00 pm  
Networking and Diversity+Inclusion Reception, sponsored by PYA  
(attendees, faculty, and registered spouses and guests welcome; more information on page 16)

Wednesday, February 10, 2016

7:00-8:00 am  
Continental Breakfast, sponsored by PYA  
(attendees, faculty, and registered spouses and guests welcome; more information on page 16)

7:00-8:00 am  
Networking Breakfast: Kiss My Glass...and Beyond: How Professional Relationships Help Women Break Through, hosted by AHLA’s Diversity+Inclusion Council  
(attendees, faculty, and registered spouses and guests welcome; more information on page 16)

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BB. Have You Thought of Everything? Key Legal, Compliance, Governance, Operational and Practical Considerations for a Clinical Research Programs in the Community Hospital and Physician Group Practice  
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Leah A. Voigt

5:00-6:00 pm  
Networking and Diversity+Inclusion Reception, sponsored by PYA  
(attendees, faculty, and registered spouses and guests welcome; more information on page 16)
Program Agenda

9:45-10:45 am
BB. Section 501(r): Where Do We Go from Here—Interactive Session
(not repeated)
Robert W. Fritz (Moderator)
Lisa J. Gilden
Cynthia F. Wisner
❯❯ Final regulations and other guidance related to Section 501(r)
❯❯ Best practices for implementation
❯❯ What are the open issues?
❯❯ Come prepared to ask your most pressing 501(r) questions!

CC. Back to the Future: The Blurring of the Lines between Payers and Providers
Gary Scott Davis
Michael J. Finnerty
❯❯ Factors driving a renewed interest in provider-sponsored health plans
❯❯ Why previous provider-sponsored health plans failed or were sold
❯❯ Factors to evaluate in provider-sponsored health plan opportunities
❯❯ Legal risks and issues when structuring provider-sponsored health plans
❯❯ Deciding whether to go it alone, collaborate with other providers or joint venture with a third party insurer
❯❯ Actual or virtual—the difference between being a plan (licensed) and acting like a plan (risk assuming)

H. Effective and Compliant Utilization of Nurse Practitioners and Physician Assistants (repeat)

X. Breaking Up is Hard to Do: An Unwind Checklist for a Smoother Transition (repeat)

Z. The Antitrust Treatment of Provider Mergers and Affiliations in a Post-ACA World (repeat)

11:00 am-12:00 noon
DD. Navigating a Sale of a Physician Practice in the Middle of an Investigation (not repeated)
Thomas H. Hawk, III
Glenn P. Prives
❯❯ How to managed the sale process in the context of an investigation
❯❯ What information to disclose to buyer at various stages of the transaction process (e.g., during the auction process, at LOI stage, after purchase agreement has been signed, after closing)
❯❯ How much information to disclose to the enforcement authorities, particularly as it relates to financial terms of the transaction
❯❯ Whether and how to involve buyer counsel in discussions with enforcement authorities
❯❯ How to structure purchase agreement provisions to allocate responsibility and control over the defense of the investigation, including financial responsibility for settlement

EE. Legal Ethics: The Health Lawyer’s Ritual: Striving for Good Governance with Wise, Wicked, Simple, and Unable to Ask Board Members
Carolyn Victoria Metnick
Susan F. Zinder
Through the prism of the traditional ritualistic Wise, Wicked, Simple, and Unable to Ask individuals, recent newsworthy developments affecting nonprofit and healthcare governance concerns will be reviewed, with the goal of helping counsel ethically advise their clients. Highlighted developments will include:
❯❯ The Yates memorandum
❯❯ The Lemington case
❯❯ The Met Council scandal
❯❯ The collapse of FEGS
❯❯ The Cooper Union Board’s decision to charge tuition for the first time,
❯❯ The Carnegie Hall Board dispute
❯❯ The April 2015, “Practical Guidance for Health Care Governing Boards on Compliance Oversight”

B. Zen and the Art of Representing Hospital-Based Physician Groups (repeat)

K. IRS Audits of Health Care Organizations—"Show Me the Money" (repeat)

Y. The Stark Law: Past, Present and Future (repeat)

12:00 noon-1:15 pm
Lunch on your own or attend a Practice Group Luncheon: Antitrust, Health Information and Technology, Physician Organizations and Regulation, Accreditation, and Payment (joint luncheon), OR Medical Staff Credentialing and Peer Review and Accountable Care Organizations Task Force (joint luncheon), sponsored by NorthGauge Healthcare Advisors, LLC (additional fee; limited attendance; pre-registration required; more information on page 16; register on page 19)

1:30-3:00 pm Extended Sessions
FF. Legislative Changes and OMHA Initiatives Reforming the Medicare Appeals Process (not repeated)
Kimberly Brandt
Nancy J. Griswold
Andrew B. Wachler
❯❯ Significant legislative reform to the Medicare appeals process and changes to the Recovery Audit Contractor program
❯❯ Important initiatives taken by the Office of Medicare Hearings and Appeals (OMHA) to promote efficiency and reduce the backlog of appeals at the Administrative Law Judge level of appeal, including expansion of the Settlement Conference Facilitation program
❯❯ The impact these legislative modifications and OMHA initiatives will have on physicians, physician organizations, hospitals and health systems
❯❯ Strategic approaches and practical tips for counsel to consider when navigating clients through the changing Medicare appeals landscape and the Settlement Conference Facilitation program

GG. The Intersection of Quality, Payment, and Government Enforcement
George B. Breen
Jeffrey Dickstein
Daniel E. Gospin
❯❯ Payments based on quality of care and the new enforcement risks for physicians and hospitals
❯❯ The legal theories the government pursues in quality of care and medical necessity investigations and the defenses available to those caught up in this effort
Program Agenda

HH. Fair Market Value—Year in Review  
Kelly R. Anderson  
Julie E. Kass  
Edward Richardson

- 2015 regulatory actions, court cases, settlements, and other developments that focus on and/or otherwise relate to the concept of fair market value in hospital-physician transactions
- Regulatory and operational perspective on how those developments might reflect, challenge, and/or affect prevailing legal perspectives and operational processes regarding physician-hospital arrangements

JJ. Physician and Hospital Payment Changes—What’s New and How Do We Handle It?  
Alexander D. Eremia  
Melissa James Jackson  
John E. Kelly

- General payment trends—the shift to programs that pay for value rather than volume; more regulation and administrative burden, yet lower payments
- Key changes to hospital payments, including recent regulatory changes (e.g. the proposed changes to the Two-Midnight Policy) that will go into effect in 2016
- Key changes to physician payments, including the changes to Medicare physician payment that were passed in the Medicare Access and CHIP Reauthorization Act of 2015 will change physician payments and be implemented over the course of the next few years
- Key updates related to fraud and abuse regulations that impact physician and hospital payments
- Practical and operational implications of these changes for physicians and hospitals
- Guidance for attorneys to help their clients navigate through these changes and steps attorneys can take to better advocate for their clients as these payment trends play out

KK. Technically Challenged by Cybersecurity Risk Management?  
Practical Strategies for Integrating Best Practices into Your Compliance Efforts  
Christopher Brandon Evans  
Heather L. Fields  
Jennifer L. Rathburn

- Current and evolving legal standards for security compliance under the HIPAA Security Rule, NIST Cybersecurity Framework, the FDA Medical Device Cybersecurity Guidance, and other emerging laws
- What a “table top” cybersecurity exercise looks like and the benefits of engaging in one
- Best practices for cybersecurity risk management, including:
  - Practical approaches for integrating security risk management into existing enterprise risk management program
  - How to effectively educate and train board of directors and senior leaders

--- Tips for harmonizing institutional policies
--- Evaluating insurance coverage
--- Vendor management techniques

3:00 - 3:15 pm  
Beverage and Snack Break, sponsored by CBIZ Healthcare Valuation and HealthCare Appraisers, Inc.

3:15 - 4:15 pm  
LL. Austin City Limits—Navigating the Border of Immigration and Health Care Law (not repeated)  
Kristen A. Harris  
Jennifer Minear

- E-verify is issuing something called a “tentative non-confirmation” for our star new hire. Help! What do we do?
- We need to hire someone on an H-1B work visa. What’s that? I’ve heard something about a “lottery” system? That’s a joke, right?
- We’re merging with another health care system that has some foreign workers. That’s not a problem, right?
- How worried should I be about national origin discrimination? Or about hiring someone who is unauthorized?
- Isn’t there some immigration law that’s supposed to make it easier to hire foreign doctors when we can’t find U.S. physicians?
- Dr. X says we need to sponsor him for a green card. How do we do that?

MM. Enforcement Efforts in FCA/Stark Cases  
Laurie A. Oberembit  
Michael E. Paulhus

- Recent significant Stark settlements and decisions
- Discussion of physician compensation fact patterns
- Enforcement priorities in Stark cases
- Complexities of litigating and evaluating FCA cases premised on Stark

NN. Leading the Way to Zero: The New Joint Commission  
Lisa Diehl Vandecaveye

The Joint Commission is in the process of a transformation. The transformation journey provides the tools to healthcare organization so all people always experience the safest, highest quality, best value health care across all settings.

- What is a high reliability organization and how does it impact healthcare?
- What tools are available from The Joint Commission to achieve high reliability?
- What is “project refresh” and how will it impact health care organizations?
- What is new at The Joint Commission and why it is important to your organization?
- What can a health care attorney do to positively influence quality and safe patient care?

G. 340B Hospitals: Anticipating and Responding to Evolving Compliance Standards and Audits in Wake of Proposed 340B Mega Guidance and Orphan Drug Ruling (repeat)

CC. Back to the Future: The Blurring of the Lines Between Payers and Providers (repeat)
**Program Agenda**

**4:30-5:30 pm**

**OO. In or Out: Network Adequacy Regulation and Out-of-Network Litigation** (not repeated)
- Daniel Mulligan
- Brian R. Stimson
  - Regulatory developments related to network adequacy for government-subsidized health plans
  - Administrative and legal remedies available to out-of-network providers serving members of government-subsidized health plans
  - Recent litigation regarding commercial out-of-network rates and business practices (e.g., referrals from in-network to out-of-network providers)
  - State legislative action focused on the balance billing of commercial insureds and so-called “surprise bills”

**PP. Provider-Based Status: How Could So Much Change in So Little Time?**
- Andrew D. Ruskin
- Lawrence W. Vernaglia
  - Fundamentals of provider-based status
  - Impact of the Bipartisan Budget Act
  - Impact of the 340B “Mega-Notice” on why provider-based status remains important
  - Structural considerations when billing private payers as freestanding and Medicare as provider-based, including recent Stark pronouncements
  - Implications of recent CMS pronouncements on sharing space with physician offices as vitiating provider-based status

**E. The Evolution of Value-Based Compensation Using Clinically Integrated Networks** (repeat)

**N. “To Quality and Beyond!!”: Developments in Physician Reimbursement** (repeat)

**T. Evaluating Recent Regulatory Developments: Remembering the Fundamentals—It’s Where the Rubber Meets the Road** (repeat)

**5:30-6:30 pm**

**Networking Reception, sponsored by HORNE LLP**
(attendees, faculty, and registered spouses and guests welcome)

**Wednesday, February 10, 2016**

**7:30 am-12:30 pm**

**Registration and Information**

**7:30-8:30 am**

**Continental Breakfast, sponsored by PYA**
(attendees, faculty, and registered spouses and guests welcome)

**8:30-10:00 am**

**Extended Sessions**

**QQ. Medicare’s Bundled Payment Initiatives: Understanding the “New Normal” in Provider Reimbursement** (not repeated)
- Tami Reinglass Horton
- Robert D. Stone
  - A brief history of Medicare’s bundled payment reform programs
  - The Bundled Payment for Care Improvement initiative, the primary bundled payment program currently underway, including a summary of how bundled payment programs work in practice, common contracting issues, and applicable fraud and abuse and payment waivers
  - Other recently announced bundled payment programs, including the Comprehensive Care for Joint Replacement program (the first mandatory bundled payment program for selected hospitals), currently scheduled to begin April 1, 2016
  - The likely direction of bundled payment reforms in the future and thoughts about how providers might better position themselves for participation

**GG. The Intersection of Quality, Payment, and Government Enforcement** (repeat)

**HH. Fair Market Value—Year in Review** (repeat)

**JJ. Physician and Hospital Payment Changes—What’s New and How Do We Handle It?** (repeat)

**KK. Technically Challenged by Cybersecurity Risk Management? Practical Strategies for Integrating Best Practices into Your Compliance Efforts** (repeat)

**10:15-11:15 am**

**RR. The Voluntary Disclosure Dilemma** (not repeated)
- Stephen H. Siegel
  
Health care providers have to evaluate the risks of not disclosing potential Stark, Kickback and False Claims Act violations in light of *Toumey*, *Halifax*, the obligation to disclose “known overpayments”, and potential Whistle-blowers
  - Weighing the benefits and risks of voluntary disclosure
  - Deciding which voluntary disclosure mechanism to select
  - What should be disclosed
  - Presenting and negotiating the terms of a voluntary disclosure

**S. Labor Laws in Hospitals and Health Systems: Taking Your Legal Temperature** (repeat)

**EE. Legal Ethics: The Health Lawyer’s Ritual: Striving for Good Governance with Wise, Wicked, Simple, and Unable to Ask Board Members** (repeat)

**NN. Leading the Way to Zero: The New Joint Commission** (repeat)

**PP. Provider-Based Status: How Could So Much Change in So Little Time?** (repeat)

**11:30 am-12:30 pm**


**O. Acquisitions of Community Hospitals by Not for Profit and Profit Systems** (repeat)

**P. Modern Physician–Hospital Affiliations in an Era of Increased Fraud and Abuse Scrutiny** (repeat)

**U. The Doctor Will See You Virtually: Telemedicine and E-Visits** (repeat)

**MM. Enforcement Efforts in FCA/Stark Cases** (repeat)

**Adjournment**
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Melissa James Jackson
Senior Associate Director for Policy
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Download the AHLA App!

This free app is available in the iTunes App store or Google Play store by searching ‘AHLA’. Download AHLA, by Bravura Technologies, onto your mobile device and hit open. Choose ‘Events’ to find the Physicians and Hospitals Law Institute. Click on the event (you’ll be prompted to enter your email address). You will not be able to access the event features of a program if you are not registered for the event.

The App will include the agenda, attendee list, and access to the PowerPoint presentations.

The program portion of the AHLA App is sponsored by Ntracts, Inc.

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# Program at a Glance

## Sunday, February 7, 2016

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## Monday, February 8, 2016

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<td>8:15-9:45 am</td>
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</tr>
<tr>
<td>9:45-10:15 am</td>
<td>Coffee break, sponsored by CBIZ Healthcare Valuation and HealthCare Appraisers, Inc.</td>
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<tr>
<td>10:15-11:15 am</td>
<td>A. Regulations and Policies Affecting a Physician's Prescribing Authority (not repeated)</td>
</tr>
<tr>
<td>11:30 am-12:30 pm</td>
<td>F. Retail Medicine: Bad for Doctors and Hospitals or Something They Should Embrace? (not repeated)</td>
</tr>
<tr>
<td>12:30-1:45 pm</td>
<td>Lunch on your own or attend a Practice Group Luncheon: Health Care Liability and Litigation, Hospitals and Health Systems, In-House Counsel Practice Groups and Enterprise Risk Management Task Force (joint luncheon), sponsored by Sullivan, Cotter and Associates, Inc. OR Labor and Employment (additional fee; limited attendance; pre-registration required; more information on page 16; register on page 19)</td>
</tr>
<tr>
<td>2:00-3:00 pm</td>
<td>Q. Landmines and Life-savers in Your Managed Care Contract (not repeated)</td>
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<tr>
<td>3:15-4:15 pm</td>
<td>U. The Doctor Will See You Virtually: Telemedicine and E-Visits</td>
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<td>G. 340B Hospitals: Anticipating and Responding to Evolving Compliance Standards and Audits in Wake of Proposed 340B Mega Guidance and Orphan Drug Ruling</td>
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<td>D. Not Your Grandfather's Payment: Value-Based Payments, Medicare, and Beyond</td>
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<td>J. The Legal and Practical Aspects of Physician Recruitment—A Case Study</td>
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<td>E. The Evolution of Value-Based Compensation Using Clinically Integrated Networks</td>
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<td>11:30 am-12:30 pm</td>
<td>K. IRS Audits of Health Care Organizations—“Show Me the Money”</td>
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<td>U. The Doctor Will See You Virtually: Telemedicine and E-Visits</td>
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## Program at a Glance

### Monday, February 8, 2016 (continued)

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<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Speakers</th>
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</thead>
<tbody>
<tr>
<td>4:30-5:30 pm</td>
<td>V. The Strategic Advantages of ADR in Health Care Employment Disputes: Risk Avoidance, Value Proposition, and Just Good Business Sense (not repeated)</td>
<td>Danaher Drucker</td>
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<tr>
<td></td>
<td>W. Medical and Behavioral Health Care–Solving the Integration Puzzle (not repeated)</td>
<td>DeLoss Howe</td>
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<tr>
<td></td>
<td>X. Breaking Up is Hard to Do: An Unwind Checklist for a Smoother Transition</td>
<td>Gillette Hickner</td>
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<td></td>
<td>Y. The Stark Law: Past, Present and Future</td>
<td>Hornchick Wilson</td>
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<td></td>
<td>Z. The Antitrust Treatment of Provider Mergers and Affiliations in a Post-ACA World</td>
<td>Lomax</td>
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<tr>
<td>5:30-6:30 pm</td>
<td>Networking and Diversity+Inclusion Reception, sponsored by HORNE LLP Hosted by AHLA's Diversity+Inclusion Council</td>
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### Tuesday, February 9, 2016

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<tr>
<th>Time</th>
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<th>Speakers</th>
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<tbody>
<tr>
<td>7:00 am-5:30 pm</td>
<td>Registration and Information</td>
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<tr>
<td>7:00-8:15 am</td>
<td>Continental Breakfast, sponsored by PYA (attendees, faculty, and registered spouses and guests welcome)</td>
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<td>Networking Breakfast: Kiss My Glass…Ceiling: How Professional Relationships Help Women Break Through, sponsored by ECG Management Consultants Hosted by AHLA’s Women’s Leadership Council (attendees and faculty welcome; attendance is limited; pre-registration required; more information on page 16; register on page 19)</td>
<td></td>
</tr>
<tr>
<td>8:30-9:30 am</td>
<td>AA. Have You Thought of Everything? Key Legal, Compliance, Governance, Operational and Practical Considerations for a Clinical Research Programs in the Community Hospital and Physician Group Practice (not repeated)</td>
<td>Guidry Voigt</td>
</tr>
<tr>
<td></td>
<td>C. Responding to HIPAA Breaches: How to Avoid or Minimize Liability (repeat)</td>
<td>Soskins Stanger</td>
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<td></td>
<td>D. Not Your Grandfather’s Payment: Value-Based Payments, Medicare, and Beyond (repeat)</td>
<td>Bane Zimmerman</td>
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<tr>
<td></td>
<td>J. The Legal and Practical Aspects of Physician Recruitment–A Case Study (repeat)</td>
<td>Remer Skyles</td>
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<td></td>
<td>R. Physicians in the Crosshairs: Effective Strategies for Dealing with Recent Enforcement Trends Involving Physician-Related Fraud (repeat)</td>
<td>Grizzle Williamson</td>
</tr>
<tr>
<td>9:45-10:45 am</td>
<td>BB. Section 501(r): Where Do We Go from Here–Interactive Session (not repeated)</td>
<td>Friz (Moderator) Gilden Wisner</td>
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<tr>
<td></td>
<td>CC. Back to the Future: The Blurring of the Lines Between Payers and Providers (repeat)</td>
<td>Davis Finnerty</td>
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<tr>
<td></td>
<td>H. Compliant Utilization of Advanced Practice Providers (repeat)</td>
<td>Hyman Krouse</td>
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<td>X. Breaking Up is Hard to Do: An Unwind Checklist for a Smoother Transition (repeat)</td>
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<td>Z. The Antitrust Treatment of Provider Mergers and Affiliations in a Post-ACA World (repeat)</td>
<td>Lomax</td>
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<tr>
<td>11:00 am-12:00 noon</td>
<td>DD. Navigating a Sale of a Physician Practice in the Middle of an Investigation (not repeated)</td>
<td>Hawk Prives</td>
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<td></td>
<td>EE. Legal Ethics: The Health Lawyer's Ritual: Striving for Good Governance with Wise, Wicked, Simple and Unable to Ask Board Members (repeat)</td>
<td>Metnick Zinder</td>
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<td></td>
<td>B. Zen and the Art of Representing Hospital-Based Physician Groups (repeat)</td>
<td>Bittlinger Martus</td>
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<td>K. IRS Audits of Health Care Organizations–“Show Me the Money” (repeat)</td>
<td>Griffith Waitkus</td>
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## Program at a Glance

### Tuesday, February 9, 2016 (continued)

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<tr>
<td>12:00 noon-</td>
<td>Lunch on your own or attend a Practice Group Luncheon:</td>
</tr>
<tr>
<td>1:15 pm</td>
<td>Antitrust, Health Information and Technology, Physician Organizations</td>
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<tr>
<td></td>
<td>and Regulation, Accreditation, and Payment (joint luncheon)</td>
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<tr>
<td></td>
<td>OR Medical Staff Credentialing and Peer Review and Accountable Care</td>
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<td></td>
<td>Organizations Task Force (joint luncheon), sponsored by NorthGauge</td>
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<td></td>
<td>Healthcare Advisors, LLC (joint luncheon) (additional fee; limited</td>
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<td>attendance; pre-registration required; more information on page 16;</td>
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<td></td>
<td>register on page 19)</td>
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<tr>
<td>1:30-3:00 pm</td>
<td>Extended Sessions</td>
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<tr>
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<td>FF. Legislative Changes and OMHA Initiatives Reforming the Medicare</td>
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<td></td>
<td>Appeals Process (not repeated)</td>
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<td>GG. The Intersection of Quality, Payment, and Government Enforcement</td>
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<td>HH. Fair Market Value—Year in Review</td>
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<td></td>
<td>JJ. Physician and Hospital Payment Changes—What’s New and How Do</td>
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<td>We Handle It?</td>
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<tr>
<td></td>
<td>KK. Technically Challenged by Cybersecurity Risk Management?</td>
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<tr>
<td></td>
<td>Practical Strategies for Integrating Best Practices into Your</td>
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<td></td>
<td>Compliance Efforts</td>
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<tr>
<td>3:00-3:15 pm</td>
<td>Beverage and Snack Break, sponsored by CBIZ Healthcare Valuation</td>
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<tr>
<td></td>
<td>and HealthCare Appraisers, Inc.</td>
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<tr>
<td>3:15-4:15 pm</td>
<td>LL. Austin City Limits–Navigating the Border of Immigration and</td>
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<td></td>
<td>Health Care Law (not repeated)</td>
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<td></td>
<td>MM. FCA Enforcement Under the Stark Law</td>
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<td>NN. Leading the Way to Zero: The New Joint Commission</td>
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<td>G. 340B Hospitals: Anticipating and Responding to Evolving Compliance</td>
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<td>Standards and Audits in Wake of Proposed 340B Mega Guidance and</td>
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<td>Orphan Drug Ruling (repeat)</td>
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<tr>
<td></td>
<td>Providers (repeat)</td>
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<tr>
<td>4:30-5:30 pm</td>
<td>OO. Managed Care Litigation Update (not repeated)</td>
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<td>PP. Provider-Based Status: How Could So Much Change in So Little</td>
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<tr>
<td>5:30-6:30 pm</td>
<td>Networking Reception, sponsored by HORNE LLP (attendees, faculty,</td>
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<td>QQ. Medicare’s Bundled Payment Initiatives: Exploring a Core</td>
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<td>Component of CMS’s Reimbursement Reforms (not repeated)</td>
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<td>GG. The Intersection of Quality, Payment, and Government Enforcement</td>
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<tr>
<td>10:15-11:15 am</td>
<td>RR. The Voluntary Disclosure Dilemma (not repeated)</td>
<td>Siegel</td>
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<tr>
<td></td>
<td>S. Labor Laws in Hospitals and Health Systems: Taking Your Legal Temperature</td>
<td>Farmer, Lasky</td>
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<td>PP. Provider-Based Status: How Could So Much Change in So Little Time? (repeat)</td>
<td>Ruskin, Vernaglia</td>
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<tr>
<td>11:30 am-12:30 pm</td>
<td>M. The 2015 Databank Guidebook: Significant Changes, and Challenges (repeat)</td>
<td>Cassidy, Harrison</td>
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<td></td>
<td>O. Acquisitions of Community Hospitals by Not for Profit and Profit Systems</td>
<td>Carnahan, Lewis</td>
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<td>P. Modern Physician-Hospital Affiliations in an Era of Increased Fraud</td>
<td>Beckham, Burris</td>
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<td>and Abuse Scrutiny (repeat)</td>
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Monday, February 8
12:30-1:45 pm
Topic: Respond to an Active Shooter
Ron McPherson, South Texas Protective Security Advisor, US Department of Homeland, Security, Austin, TX
Active shooters can attack our workplaces, schools, shopping malls, museums, and military installations. Although many of the perpetrators have a history of negative—sometimes violent—behavior, there is still no single, accurate one-size-fits-all profile of an active shooter. Active shooters frequently target some of our Nation’s most vulnerable open-access settings, such as the 2011 attempted assassination of Representative Gabrielle Giffords during a public appearance at an Arizona shopping center, and the 2007 shooting on the campus of Virginia Tech.

The protection of our nation’s critical infrastructure from active shooters and other threats is a shared responsibility between the US Department of Homeland Security and the public and private-sector partners who own and operate facilities. Given today’s ever-changing threat environment, preparing for active shooter scenarios and training employees to cope with such incidents should be a key component of any organization’s incident response planning.

Labor and Employment Practice Group Luncheon
Topic: The Gordian Knot of ADR in FCA Cases: Untangling Conflicting Interests of Multiple Parties
Mike Paulhus (Moderator), King & Spalding LLP, Atlanta, GA
Maria Greco Danaher, Ogletree Deakins, Pittsburgh, PA
Nancy Lesser, Pax ADR LLC, Washington, DC
Mediation is often the best way to resolve False Claims Act (FCA) cases, but success may hinge on managing the complex web of relationships, particularly in the case of relator claims of retaliation and attorneys’ fees.

What are the professional and ethical duties of counsel and the neutral where the relator is participating in the Alternative Dispute Resolution proceeding along with the government and the defendant?
What are the key challenges and the techniques that have served counsel well in mediating multi-party FCA cases?
What is the neutral’s approach to maximize prospects of a successful resolution?

5:30-6:30 pm
Networking and Diversity+Inclusion Reception, sponsored by HORNE LLP, Hosted by AHLA’s Diversity+Inclusion Council
Join AHLA for a combined Welcome Reception and Diversity+Inclusion Reception. Learn more about AHLA’s diversity and inclusion initiatives. Network with AHLA leaders and your fellow colleagues.

Tuesday, February 9
7:00-8:15 am
Networking Breakfast, sponsored by ECG Management Consultants Hosted by AHLA’s Women’s Leadership Council
Topic: Kiss My Glass…Ceiling: How Professional Relationships Help Women Break Through
Ann Bittenger, The Bittenger Law Firm; Julie Kass, Ober Kaler; Lisa Vandecaveye, The Joint Commission; and Dionne Lomax, Mintz Levin
Cohn Ferris Glovsky & Popeo PC
The latest research revealing the unique challenges women face in the workplace
Tips from the trenches to overcome barriers to success, including the importance of mentors and networking
How to leverage connections with your peers—both men and women
Strategies you can use right now to break through

12:00 noon-1:15 pm
Antitrust; Health Information and Technology; Physicians Organizations; and Regulation, Accreditation, and Payment Practice Groups Luncheon
Topic: Changing Regulatory and Reimbursement Environment for Telemedicine
Matt Dow, Jackson Walker LLP, Austin, TX
Amy J McCullough, Polsinelli PC, Atlanta, GA
The evolving regulatory and reimbursement landscape for telemedicine as the reach of telemedicine expands (at least in most states)
State law and reimbursement trends and developments
The ongoing litigation between Teladoc Inc. and the Texas Board of Medicine over restrictions on the use of telemedicine

Medical Staff, Credentialing, and Peer Review Practice Group and the Accountable Care Organization Task Force Luncheon, sponsored by NorthGauge Healthcare Advisors, LLC
Topic: ACO/CIN Provider Terminations: Procedural Protections, Immunities, and Databank Reporting
Michael R. Callahan, Katten Muchin Rosenman LLP, Chicago, IL
Robin Locke Nagele, Post & Schell PC, Philadelphia, PA
Clinical networks and Accountable Care Organizations (ACO) are beginning to confront the question of how to terminate substandard or underperforming practitioners without incurring material risk of antitrust, civil rights, or state court litigation from the terminated practitioners
Do the federal and state privileges and immunities that protect hospital privileging actions extend to ACOs and CINs ( Clinically Integrated Network)?
Should ACOs/CINs elect to participate in the Databank reporting system, and gain the immunity protection of the Healthcare Quality Improvement Act?
Do the risks, headaches, and cost outweigh the potential benefits?
Does termination for failure to achieve quality metrics or comply with clinical protocols qualify as peer review?

5:30-6:30 pm
Networking Reception, sponsored by HORNE LLP
Join your colleagues immediately following a full day of sessions. Hors d’oeuvres and drinks will be served. Attendees, faculty, and registered spouses and guests welcome.
Value-based compensation is transforming healthcare delivery.

Are you managing the change, or is it managing you?

We guide healthcare providers through disruptive change, with insights to advance financial strength, innovation and culture.

To learn how HORNE redesigns physician compensation plans to align with outcomes-based delivery models, contact Leigh Ellen Sandifer at leighellen.sandifer@hornellp.com or 601.326.1137.
Program Information

Dates: February 8-10, 2016
Place: Hilton Austin Hotel
500 East 4th Street
Austin, TX 78701

Reservations: (512) 482-8000

Registration Fees:
Postmarked and paid by January 15, 2016
$895 for the first AHLA Member
$820 for each additional AHLA Member registering from the same firm/organization
$1120 Non-Member

Postmarked and paid between January 16–31, 2016*
$1020 for the first AHLA Member
$945 for each additional AHLA Member registering from the same firm/organization
$1120 Non-Member

Printed Course Materials: $100

*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: In-house counsel, government employees, academicians, solo practitioners and students. Additionally, discounted registration fees are available to any individual who expresses the need for such a discount and certifies financial hardship. If you require financial assistance in order to attend the program, please contact Anne H. Hoover, Vice President of Programs at (202) 833-0780 or ahoover@healthlawyers.org to request assistance.

Spouse/Guest Fee: For an additional $50 spouses and adult guests can register to attend the receptions on Monday and Tuesday evenings and the breakfasts on Monday, Tuesday, and Wednesday 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 16.5 continuing education credits (including 2.0 ethics credits) based on a 60-minute hour and 19.8 credits (including 2.4 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. Web site: www.nasba.org. This seminar will be worth approximately 19.0. CPE credits.

AHLA will be applying for 19.8 Compliance Certification Board (CCB) credits.

Membership: Dues are $210 for those admitted to the Bar/graduated from college within the last four years; $330 for those admitted/graduated between four and seven years ago; and $375 for those admitted/graduated eight or more years ago. Dues are $105 for government employees and full-time academicians; $99 for paralegals, and $110 for public interest professionals. Full-time law school students are eligible for free membership. 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 January 27, 2016. 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.

Travel: Association Travel Concepts (ATC) has negotiated discounts with United, Delta, Enterprise, Hertz Rental Car, Enterprise, and Dollar Rent a Car to bring you special airfares and car rental rates lower than those available to the public. 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
e-mail: reservations@atcmeetings.com
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.

Live Tweet the Program using # AHLA16

Will you be in Austin for the Physicians and Hospitals Law Institute? We encourage you to live tweet @healthlawyers so that attendees can learn from more than one session at once, and so that members unable to attend still feel plugged in. Would you like to live tweet one or more sessions of the program from a Practice Group Twitter handle? If so, please email Brian Davis bdavis@healthlawyers.org.

Altegra Health

Twitter coverage of this program is sponsored by Altegra Health
Physicians and Hospitals Law Institute 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 INFORMATION

Early Registration Fees (Postmarked and paid on or before January 15, 2016):

AHLA Members: ☐ $895  Non-Members: ☐ $1120

Multi Members Discount: ☐ $820 each additional AHLA member registering from same organization at same time on the same check or credit card payment

Registration fees (Postmarked and paid between January 16-31, 2016):

AHLA Members: ☐ $1020  Non-Members: ☐ $1245

Multi Members Discount: ☐ $945 each additional AHLA member registering from same organization at same time on the same check or credit card payment

Discounts

In House/Solo Practitioner: ☐ $100 off full applicable rate

Government/Academicians/Public Interest Attorney Members: ☐ $540  Non-Members: ☐ $615

One Day Rate Members: ☐ $445  Non-Members: ☐ $545

I will require: ☐ Audio ☐ Visual ☐ Mobility ☐ Other assistance__________ ☐ I have special dietary needs

I plan to attend: ☐ Networking Breakfast hosted by Women’s Leadership Council (February 9, 2016, 7:00-8:15 am)

REGISTRATION INFORMATION

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

$_________________ Registration Fee

$_________________ Printed Course Materials ($100) (All attendees receive an electronic version of the materials. Attendees may purchase the binder for an additional fee. Orders are guaranteed if placed by January 15, 2016. After this date, availability is limited and may sell out.)

Practice Group Luncheons ($55 for sponsoring PG Members; $60 for Non-Members)

$_________________ February 8, 2016: ☐ HC Liability, HHS, IHC and ERM Task Force (joint luncheon) OR ☐ Labor and Employment

$_________________ February 9, 2016: ☐ Antitrust, HIT, PO, and RAP (joint luncheon) OR ☐ MSCPR and ACO Task Force (joint luncheon) OR

$_________________ Spouse/Guest Fee ($50)

$_________________ Membership Dues (Date admitted to the bar/graduated: ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐)

$_________________ Total Enclosed

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

Bill my credit card: ☐ VISA ☐ M/C ☐ DISCOVER ☐ Diners Club International

Number: _________________________________________________________________________ Exp. Date: ☐ ☐ ☐ ☐

Name of Cardholder: __________________________________________________________________________

Signature of Cardholder: ______________________________________________________________________

ZIP Code of Cardholder’s Billing Address ______________________________________________________________________

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 January 27, 2016.

Fed ID No. 23-7333380