

TEXAS HEALTH LAW CONFERENCE

PROVIDED BY THE HEALTH LAW SECTION OF THE STATE BAR OF TEXAS

34TH

The 2021 Texas Health Law Conference will be offered completely virtual this year. Our aim is to deliver an experience that offers education hours and sessions, allows you to still connect with your peers and presenters, and provides unique opportunities to engage with our sponsors and supporters.

So, please join us online this October, where we'll gather for education and conversation centered around current and emerging health law industry trends in this latest wave of the pandemic.

WHAT TO EXPECT

- Opportunity to earn up to 12.25 continuing legal education hours, including 1.0 ethics hours!
- Live, interactive presentations!
- Access to event content and recordings through the end of the year!
- And so much more!

MONDAY
OCTOBER 11TH

9:30 - 10:30AM ANNUAL LIABILITY UPDATE | **Yvonne K. Puig**, J.D., Chief Integration Partner, Life Sciences and Healthcare, United States, Norton Rose Fulbright US LLP, Austin

Learn about key cases that impacted the healthcare industry and your practice during the past year, including emerging legal issues and theories in health law. Key regulatory changes will be covered and attendees will be provided a comprehensive paper for use as a "go to" resource guide throughout the year.

CONCURRENT | **BREAKOUTS**
10:45 - 11:45AM

PERSPECTIVES FROM THE FRONT LINES: EMPLOYMENT LAW STRATEGIES AND DEVELOPMENTS DURING THE COVID-19 PANDEMIC | **Mark Easterly**, J.D., Vice President of Legal Services, Houston Methodist; **Jamila S. Mensah**, J.D., Partner, Norton Rose Fulbright US LLP, Houston; and **Todd Schroeder**, J.D., Partner, Norton Rose Fulbright US LLP, Dallas

The panelists will provide an overview of key COVID-related employment issues and developments, including employee vaccinations and other return to work issues, remote/hybrid work models, and tax implications for multistate employers.

MONDAY, OCTOBER 11TH (continued)

THE HIGHS AND LOWS OF THE 87TH TEXAS LEGISLATIVE SESSION | **Jennifer Banda**, J.D., Vice President of Advocacy, Public Policy and HOSPAC, Texas Hospital Association, Austin; and **Laura J. Thetford**, J.D., Assistant General Counsel, Texas Medical Association, Austin

The 2021 session of the Texas Legislature was unlike anything in Texas history. Laura and Jennifer will detail how a pandemic and an epic ice storm impacted legislation, including health care policy and budget agendas and efforts for coverage expansion, and whether there will be an end to the ongoing special sessions.

VIDEO CHAT

HOT TOPIC

Join Herd Midkiff and Julie La Pata from JTaylor as they discuss private equity-backed and other types of physician practice ownership models as well as

SPONSORED BY JTaylor  their potential impact on hospital-physician alignment strategies.

Healthcare Consulting | Valuation

NOON - 12:30PM

CONCURRENT | **BREAKOUTS**
1:00 - 1:45PM

TALES FROM OPPOSING TRIAL LAWYERS ON MANAGED CARE LITIGATION | **Jenny Ecklund**, J.D., M.S.W., Partner, Thompson Coburn LLP, Dallas; and **Jonathan M. Herman**, J.D., Managing Member, Herman Law Firm, Dallas

Two presenters, who have tried managed care cases against each other, will discuss their competing perspectives on hypothetical cases involving innovative treatments like proton beam therapy and equine therapy, and the issues that they create for health plans, their members, and providers.

THE INTERPLAY BETWEEN GOVERNMENT INVESTIGATIONS AND TRANSACTIONS | **Michael E. Clark**, J.D., Of Counsel, Baker Donelson, Houston; and **Stuart F. Miller**, J.D., Shareholder, Munsch Hardt, Houston

What can you do if you learn your client is the subject of a government investigation in the middle of a potential transaction? Options for the buyer and the seller to mitigate risk and decide whether or not to pull the trigger or whether the braver decision is to walk away from the Agua Caliente.

(continued)

VIRTUAL CONFERENCE PROGRAM

OCT
11-12
2021

MONDAY, OCTOBER 11TH (continued)

INTEGRATED PRACTICES AND MEDSPAS: UNDERSTANDING THE BASIC RULES OF OWNERSHIP AND OPERATIONS | **Michael S. Byrd**, J.D., Partner, ByrdAdatto, Dallas; and **D. Wade Emmert**, J.D., Partner, Carrington Coleman, Dallas

Integrated Practices and MedSpas have challenged the medical industry, as laws have historically been misunderstood or ignored. This presentation covers the basic legal rules for ownership, diagnosis and treatment, and supervision and delegation that Integrated Practices and MedSpas must understand.

HOT TOPICS FOR TEXAS PHYSICIANS | **Sarah Tuthill**, J.D. and **Amy Swanholm**, J.D., MSEL, Assistant General Counsels, Texas Medical Board, Austin

The session will focus on novel and pressing legal and regulatory issues impacting physician practice in Texas including, but not limited to: Expansion of Telemedicine During COVID-19 Disaster Declaration, Opioid Therapy for Chronic Pain Treatment, Interstate Medical Licensure Compact, Surprise Billing Law, Texas Compassionate Use Law, and Texas Physician Health Program.

TUESDAY
OCTOBER 12TH

CONCURRENT | **BREAKOUTS**
9:30 - 10:15AM

KEEPING UP WITH SURPRISE BILLING AND PRICE TRANSPARENCY - THE IMPACT ON HEALTH PLANS, PROVIDER AND PATIENTS | **Missy Apodaca**, J.D., Senior Counsel, Katten, Dallas; **Brian Hoyt**, MBA, Managing Director, Berkeley Research Group, Washington, DC; and **JoAnna Younts**, MBA, Director, Berkeley Research Group, Washington, DC

Transparency - a buzzword for federal and state policymakers - has resulted in significant federal and state legislation with far-reaching implications the future of payer and provider negotiations and patient cost sharing. The healthcare industry is still trying to understand the next steps. The panelists will provide an overview of the new laws and regulations, potential reimbursement levels under the No Surprise Act's requirements, ways health plans and providers can use their own data to be better prepared for "baseball-style" arbitration, and how payers and providers can also leverage the transparency data to better inform their contract negotiation process and their out-of-network reimbursement strategies.

STARK/ANTI-KICKBACK LAW UPDATE | **Donna Clark**, J.D., Partner, Morgan Lewis, Houston

This session will cover the latest administrative and regulatory developments relating to the Stark and Anti-Kickback Laws. Recent case law and enforcement actions will also be discussed.

EMERGING FRONTIERS IN MENTAL HEALTH AND THE LAW OF PSYCHEDELICS | **Paula Amy Hewitt**, V.P. & General Counsel, Field Trip Health Ltd., Toronto, Ontario, CA

This session will examine the law on psychedelic substances for treatment of mental health disorders, including an overview of the mental health crisis, legal and ethical considerations in access to psychedelic drugs, legal frameworks for

TUESDAY, OCTOBER 12TH (continued)

psychedelic therapies and the application of controlled substance laws and anti-money laundering laws to companies involved in the psychedelics industry. The session will consider federal, state (including Bill H.B. 1802) and international laws related to these matters.

CONCURRENT | **BREAKOUTS**
10:30 - 11:15AM

HEALTH CARE ANTITRUST IN THE BRAVE NEW WORLD | **Laura Keidan Martin**, J.D., Partner, Katten Muchin Rosenman LLP, Chicago; and **Mark B. Tobey**, J.D., M.B.A., Senior Counsel, Husch Blackwell, Austin

Health care features prominently in antitrust policy initiatives announced so far by the Biden administration and its appointees. Two prominent antitrust lawyers will address several emerging health care antitrust hot topics in a conversational-style sharing insights and practice pointers. The dialogue will cover health care competition initiatives announced in the July 2021 Biden Executive Order including limiting or banning the use of non-competes; DOJ's continued emphasis on deterring the use of so-called "no-poaching" agreements by invoking criminal process; recent and planned merger policy and rule changes; and the current state of the implementation of hospital price transparency laws at the federal level.

COVID-19 PROVIDER RELIEF FUND: LEGAL STRATEGIES AND CONSIDERATIONS FOR REPORTING AND PREPARING FOR IMPENDING GOVERNMENT AUDITS AND ENFORCEMENT | **Benjamin C. Fee**, J.D., Attorney, Hall Render, Denver; and **Lori Wink**, J.D., Attorney, Hall Render, Milwaukee

The Public Health and Social Services Emergency Fund ("Provider Relief Fund") was appropriated \$178 billion to reimburse health care providers for expenses and lost revenues attributable to the COVID-19 pandemic. Billions of relief payments have been allocated to health care providers and suppliers over the past 18 months and the first round of recipient reporting was due September 30, 2021.

This presentation will provide a brief recap of the Provider Relief Fund, include a detailed review of the reporting obligations and process, and discuss common questions and strategies in preparation for future reporting and upcoming government audits and enforcement.

ONE STOLEN LAPTOP, TWO LOST THUMB DRIVES, AND NINE YEARS LATER - LESSONS LEARNED FROM MD ANDERSON V. OFFICE FOR CIVIL RIGHTS | **Scott McBride**, J.D., Partner, Morgan Lewis, Houston; **Jeffery P. Drummond**, J.D., Partner, Jackson Walker, Dallas; and **Allyson H. Kinzel**, J.D., Senior V.P. Legal and Regulatory Affairs, The University of Texas MD Anderson Cancer Center, Houston

MD Anderson Cancer Center appealed a proposed \$4.3 million HIPAA Civil Monetary Penalty related to missing and stolen devices. The case was recently decided by the Fifth Circuit Court of Appeals. This session describes MD Anderson's journey from investigation to enforcement to appeal to victory. We will review the history of MD Anderson's case, the legal issues on appeal, and the impact of the decision on compliance and enforcement.

(continued)

TUESDAY, OCTOBER 12TH (continued)

STAND TALL FOR SMALL: AN UPDATE ON RURAL HEALTHCARE IN TEXAS |

Fletcher H. Brown, J.D., Partner, Waller Lansden Dortch & Davis, LLP, Austin; **Nancy W. Dickey**, MD, Executive Director, A&M Rural and Community Health Institute, Bryan; and **John Henderson**, CEO/President, TORCH, Austin

Hear from a panel of experts who work with rural hospitals and get the latest on closures, federal and state legislation, COVID, regional collaboration, ideas and innovations.

VIDEO CHAT

HOT TOPIC

Spencer Fane Texas-based attorneys Cheryl Burtzel, Bill Hopkins, Dale Burrus, and Sean McKenna will address current digital health events, regulatory trends in OSHA and the Prep Act, and recent happenings in provider and business liability.

SPONSORED BY



SpencerFane

11:30AM
- NOON

NOON - 1:00PM ETHICS CHALLENGE 2021 | Justice Chari L. Kelly, J.D., Third Court of Appeals, Austin; and **Adam T. Schramek**, J.D., Partner, Norton Rose Fulbright US LLP, Austin

Brush up on your knowledge of legal ethics in this fun and informative session, conducted in a game show format like the popular television series. Get your smart phones ready, because our polling software allows everyone to participate!

1:00 - 1:15PM SECTION BUSINESS MEETING AND CONFERENCE CLOSING

VIRTUAL CONFERENCE REGISTRATION FEES

Full Conference **\$399**

Government Employee **\$330**

Law School Student (Y1-3) **\$225**

REGISTER ONLINE AT www.texhealthlaw.org/lawconf

CONFERENCE SPONSORS

DIAMOND



Healthcare Consulting | Valuation

PLATINUM



SpencerFane

GOLD

BRACEWELL



SILVER

KING & SPALDING



TARDY
LEGAL NURSE CONSULTING

waller



Katten



CONTINUING EDUCATION

This course has been approved for **minimum continuing legal education** to the State Bar of Texas Committee on MCLE for **up to 12.25 contact hours** (includes 1.0 hours of ethics credit).

The Health Law Section has registered with the Texas State Board of Legal Specialization to meet the requirements of the continuing professional education rules covering maintenance of attendance records, retention of program outlines, qualifications of instructors, program content, physical facilities and length of class hours. This registration agreement does not constitute an endorsement by the board as to the quality of the program or its contribution to the professional competence of the licensee.

If you need credit in other states, please check with the MCLE authority in your jurisdiction for the current rules regarding online learning to make sure you will be able to self-report your MCLE credit upon completion.

Attendance Policy: Participants seeking continuing education credit should claim credit commensurate with only those sessions attended in their entirety. Conference registration is also required for verification of continuing legal education credit.

HEALTH LAW COUNCIL

Fletcher H. Brown, Waller Lansden Dortch & Davis, LLP, Austin (Chair)

Gregory N. Etzel, Morgan, Lewis & Bockius, LLP, Houston (Chair-Elect)

Kristi Duske, UMC Health System, Lubbock (Vice Chair and 2021 Conference Chair)

Nathaniel Kummerfeld, U.S. Attorney's Office, Tyler (Treasurer)

Kenya Scott Woodruff, Katten Muchin Rosenman, LLP, Dallas (Secretary)

Lisa L. Hill, Visionworks of America, Inc., San Antonio (Past Chair)

Lisa Frenkel, Children's Health, Dallas (Outreach Officer)

Joe Geraci, Husch Blackwell LLP, Austin

Phillip L. Kim, Sheppard Mullin, Dallas (Communications Officer)

Allyson Kinzel, The University of Texas MD Anderson Cancer Center, Houston

Nancy LeGros, Bracewell, LLP, Dallas

Frances Louis, Baylor College of Medicine, Houston

Larry "Max" Maxwell, Max Maxwell Law Practice P.C., Dallas (Legal Specialization Officer)

Daniel Sternthal, Munsch Hardt Kopf & Harr, P.C., Houston

Kelly Walla, Texas Medical Association, Austin

Steve Wohleb, Texas Hospital Association, Austin

Carolanda Woodgett, UTMB, Galveston

Jeff J. Wurzburg, Locke Lord, Austin