

MONDAY

OCTOBER 10TH

This annual event is a popular draw for attorneys who work in the health care sector or advise health care clients. This year's in-person program will feature two full days of continuing legal education.

WHAT TO EXPECT

- Stellar program lineup designed and presented by some of the best and brightest lawyers in the nation.
- Opportunity to earn up to 13.5 continuing legal education hours, including 1.5 ethics hours! (not including the pre-conference workshop)
- Excellent networking opportunities.
- And so much more!

CONFERENCE REGISTRATION FEES*

*register early before Sept. 7
to take advantage of best pricing

Full Conference	\$599
Government Employee	\$399
Law School Student (Y1-3)	\$250
Optional Pre-Conference Workshop Add-on	\$95

7:00 - 8:00 am

Registration and Breakfast

8:00 - 8:45 am

The Stark Reality of the Physician Self-Referral Law and the Kick of the Anti-Kickback Statute in 2022 | **Tracie Smith Bedeaux**, Senior Counsel, Regulatory Group, Tenet Healthcare, Dallas; and **B. Scott McBride**, Partner, Morgan Lewis, Houston

The AKS and Stark Law have been a focus of regulatory compliance and enforcement for years. These laws are expected to continue to trend strong going forward. And while compliance with the laws may not always be clear, the exposure for non-compliance can be immense. This session will focus on recent enforcement activities and case law related to the AKS and Stark Law. This session will also review recent regulatory updates and compliance issues.

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8:45 - 9:45 am

Case Study: State of Texas v. Kimberly Saenz

Michael Schwartz, Medical Director, Biomedical Advanced Research and Development Authority, U.S. Department of Health & Human Services, Richmond, VA ; and **Chris Tortorice**, U.S. Attorney's Office for the District of Columbia, National Security Division, Washington, DC

In the spring of 2008, DaVita Dialysis in Lufkin, Texas experienced an unexplained spike in the number of patients suffering severe adverse events during their dialysis procedures. During the month of April alone, a total of ten patients went into cardiac arrest during treatment, five of whom died. After a lengthy and complicated investigation involving the Lufkin Police Department, the Centers for Disease Control, the Food and Drug Administration, the US Department of Health and Human Services and the Department of Justice, a licensed vocational nurse, Kimberly Saenz, was charged with capital murder and aggravated assault for injecting bleach into the dialysis lines of the ten victims – a method of poisoning which had never been alleged in a criminal case.

9:45 - 10:30 am

Texas Legislative Update | **Jennifer Banda**,

VP of Advocacy, Texas Hospital Association, Austin; and **Kelly Flanagan**, Assistant General Counsel, Texas Medical Association, Austin

This session will include an update on the upcoming 2022 elections and their potential impact on Austin and Washington, D.C healthcare policy, as well as an overview of legislation, rules and regulations from the past year. Presenters will also discuss the upcoming state legislative session.

(continued)

MONDAY, OCTOBER 10TH (continued)

10:30 - 10:45 am **Break**

10:45 - 11:30 am **Code Red for Health Care Labor Markets—Criminal and Civil Antitrust Enforcement Trends**

Wendy K. Arends, Partner, Husch Blackwell, Madison, WI; **Dan Loveland**, Trial Attorney, U.S. Department of Justice, Washington, DC; and **Matthew W. Lunder**, Trial Attorney, U.S. Department of Justice, Washington, DC

From first-of-their kind criminal no-poach and wage-fixing prosecutions with the potential for jail time, to civil suits challenging the enforceability of non-solicitation agreements, DOJ, state attorneys general, and private plaintiffs are actively pursuing alleged illegal agreements relating to health care labor markets. Despite two recent not guilty verdicts in these cases, competition considerations in the HR realm should continue to be a compliance concern. This panel will explore the intersection of antitrust and healthcare HR issues, provide an update on recent cases, and highlight risk mitigation strategies.

11:30 am - 12:15 pm **Enforcement in Private Equity Health Care: A Burgeoning Trend? | James Gillingham,**

Civil Chief, U.S. Attorney's Office for the Eastern District of Texas; and **Ryan J. Meyer**, Partner Katten Muchin Rosenman LLP, Dallas

After years of escaping scrutiny in health care investigations, private equity firms and individuals over the last 5 years have been the subject of increasing Government enforcement. Offering perspectives from both the Government and the defense bar, this panel will explore recent enforcement trends and analyze potential traps for the unwary in deals and operations. Most importantly, the panelists hope to give you the tools necessary to make sure neither you nor your clients appear in DOJ's next press release!

12:15 - 1:05 pm **Networking Lunch**

1:05 - 1:15 pm **Distinguished Service Award Presentation**

1:15 - 2:15 pm **Hot Topics in Healthcare Enforcement- Civil and Criminal | Jack J. Geren, Jr.,** Retired HHS/

OIG Special Agent, Dallas; **James Gillingham**, U.S. Attorney's Office for the Eastern District of Texas; and **Jody Rudman**, Office Managing Partner, Husch Blackwell, Austin

A panel discussion with the Government and defense on areas of Government oversight and enforcement focus including MSO Arrangements, Pass-Through Billing, Antitrust Issues, Telehealth, and COVID Relief Fund Fraud. The Panel will discuss recent DOJ efforts and cases, civil and criminal in these arenas. They will address the concepts and principles underlying enforcement activity in these areas, and how business arrangements can be viewed as crossing the line. They will discuss how the Government might view voluntary cooperation. They will touch on the conduct and timelines of investigations, and the often parallel investigations that complicate client representation.

(continued)

2:15 - 3:00 pm

What's New In No Surprises | Ellee Cochran, Partner, Husch Blackwell, Austin; and **Cameron Duncan**, VP of Advocacy and Public Policy, Texas Hospital Association, Austin

An overview of the history of the No Surprises Act, the implementing regulations, and latest developments in litigation involving the regulations and discussion around the hurdles both payors and providers have been facing in implementing these new rules.

3:00 - 3:15 pm **Break**

3:15 - 4:15 pm **Protecting Your Clients—and Yourself—on the Front End of the Deal | Fletcher Brown,** Partner,

Waller, Austin; **Adrian Garcia**, U.S. Attorney's Office for the Eastern District of Texas; and **Wilson G. Jones**, Partner, Bracewell, Dallas

This lively panel, comprised of two healthcare regulatory lawyers and a current DOJ enforcement lawyer, will provide insight on how the federal government looks at ownership and contractual arrangements on the back end of a deal, so counsel can be better prepared to advise their clients on the front end—and manage their own risk—while navigating the numerous minefields created by complex healthcare transactions in this high enforcement area.

4:15 - 5:00 pm

Hot Topics in Health Law and Policy

Zack Buck, Associate Professor of Law, University of Tennessee

This session documents a series of dynamic developments within health care law and policy and summarizes a few of its most important trends and areas to watch. Specifically, the talk will focus on the future of Medicare, hospital lawsuits against patients, and new policies put into place following the passage of the Inflation Reduction Act last month, among others.

5:00 - 5:45 pm

The Kidnapping of Howard Hughes

Rick Harrison, Partner, Waller, Austin

In 1946, Howard Hughes was terribly injured in the crash of an airplane he was developing for the Air Force (then the Army Air Corps). Due to the extent of his injuries, he was not expected to survive, but did, though he left the hospital addicted to morphine. In the years to come, his treating physicians continued to supply him with narcotics to sustain his addiction and manipulate him into signing lifetime employment contracts and consulting agreements to a coterie of staff. This talk centers on the toxicity of his relationships with caretakers and the ethical lapses of the physicians and lawyers representing the Hughes Estate.

5:45 - 6:45 pm

Reception

TUESDAY**OCTOBER 11TH****7:30 - 8:00 am Breakfast****8:00 - 8:45 am Annual Liability Update | Yvonne K. Puig**, Chief Integration Partner, Life Sciences and Healthcare, United States, Norton Rose Fulbright, 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.

8:45 - 9:45 am When Health Care Fraud Meets Identity Theft: The Story of U.S. v. Davis, et al., and How Three Letters Were Turned into a \$20 Million Dollar Fraud | Matthew P. Wolesky, U.S. Attorney's Office for the Western District of Missouri

This presentation is a story of how social engineering allowed several individuals to impersonate Cerner Corporation and its employees to investors and hospitals resulting in a fraud of over \$20 million dollars. This fraud was elaborate and bold, involving perjured testimony, doctored trial exhibits, fraudulent lawsuits and bankruptcies, fake website domains and email accounts, fake business entities with fake phone numbers, fake bank accounts, and fake addresses. The scheme even resulted in a fraudulent \$25 million dollar verdict in the EDTX. This presentation is about the lessons learned from that investigation, which opened eyes among many lawyers, judges, doctors, and hospital administrators across the country.

9:45 - 10:30 am Updates on the Government's Use of the Travel Act in Prosecuting Health Care Fraud**Frank Coan**, Criminal Chief, U.S. Attorney's Office for the Eastern District of Texas; and **Andrew Wirmani**, Partner, Reese Marketos, Dallas

This session will discuss prior use of the Travel Act, important cases, and where the panelists see the laws/trends going.

10:30 - 10:45 am Break**10:45 - 11:45 am Health Data Security: Cybercrime, Ransomware, and Civil Enforcement****Cade R. Cannon**, FBI, Austin; **R. David Evans**, VP and General Counsel, Hendrick Health, Abilene; **Ryan Locker**, U.S. Attorney's Office for the Eastern District of Texas; and **Josh Russ**, Partner, Reese Marketos, Dallas

All industries now exist in a state of preparation for a data breach, but the nature of healthcare information naturally places the healthcare industry and its customers in a particularly vulnerable position. This panel will discuss health data security threats from multiple perspectives: the FBI's view of the emerging threat landscape, the tools and trends in civil and criminal litigation for addressing security violations, and how major healthcare systems are implementing best practices to defensively and offensively handle these challenges.

*(continued)***11:45 am - 12:30 pm Employment Law Compliance in a Post Pandemic World | Sachin Bhandari**, VP & Assoc. General Counsel, Labor & Employment, Memorial Hermann Health System, Houston; **David B. Jordan**, Shareholder, Littler, Houston; and **David Stockel**, Asst. General Counsel, Litigation, Labor & Employment, Texas Children's Hospital, Houston

During this session, the panelists will cover a variety of employment law issues arising out of the pandemic, and the implications of those employment issues as we transition to a post-pandemic work environment. Topics include on-going vaccine compliance and mandate restrictions, return to work challenges, the flood of remote work and re-settled employees out of state or region, and the new face of employee demands and challenges in a tight labor market.

12:30 - 1:30 pm Misinformation and Mistrust as Barriers to Care in Minority & Underserved Communities**Danielle Houston**, MSPH, Executive Community Liaison, Gilead Sciences, Dallas; and **William M. Sage**, MD, Professor, Texas A&M University

The impact that personal healthcare choices have on the national and global health of the world's population is now more evident than it ever was before. This session will examine the impact of historical, social and political events on those personal choices. The efforts that are being taken to assess and address mistrust and misinformation in and amongst various communities in Texas and nationally will also be discussed.

1:30 pm Adjourn***OPTIONAL
PRE-CONFERENCE
WORKSHOP****2:00 - 5:15 pm****SUNDAY OCTOBER 9TH****Administrative Law Principles in the Context of Health Care Payment Issues | Sven C. Collins**, Partner, Hooper, Lundy & Bookman, PC, Denver; **Gregory N. Etzel**, Partner, Morgan Lewis, Houston; and **Shannon N. Sumner**, CPA, CHC, Principal and Chief Compliance Officer PYA, P.C., Brentwood, TN

Health care providers are deeply immersed in a regulatory environment of substantial scope and depth, affecting nearly every part of their operations. Sunday's program will focus on recent legal developments in administrative law as they apply to health care providers navigating their way through regulatory challenges. The sessions will include an update on recent United States Supreme Court cases and other important decisions impacting how courts review the actions of administrative agencies like the Centers for Medicare & Medicaid Services. Against the backdrop of this changing legal landscape relating to the level of deference that is given to an agency's statutory and regulatory interpretation, the Sunday workshop will explore avenues for appealing various Medicare agency determinations and practical considerations associated with pursuit of such appeals. As coding and billing issues are frequently central to payment and other disputes arising in the administration of government payment programs, a compliance overview will also be part of the Sunday workshop.

**Be sure to select on the registration form (additional fee applies).*

CONTINUING EDUCATION

This course has been approved for **minimum continuing legal education** to the State Bar of Texas Committee on MCLE for **up to 13.5 contact hours** (includes 1.5 hours of ethics credit), plus 3.0 hours for the pre-conference workshop add-on.

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.

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