

### *Health Care Perspectives*

March 2016

#### Regulatory and Compliance

##### **Minimizing Stark Law Execution Risks**

This presentation covers the ethical and professional obligations of in-house legal counsel to provide competent representation regarding Stark Law under the Illinois Rules of Professional Conduct. It also includes:

- fair market value pitfalls;
- practical safeguards against non-compliant arrangements;
- physician group practice structures;
- Stark Law implications of losses and subsidies;
- consultant exception minefields;
- recent Stark Law changes; and
- ethical quandaries for in-house counsel.

To view the presentation slides, click [here](#).

To view the presentation handout, click [here](#).

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##### **How to Avoid or Limit the Need for Peer Review Fair Hearings and Data Bank Reports**

This presentation reviews example hospital bylaw provisions, best practices and state and federal disciplinary reporting requirements so that hospitals and medical staffs can gain a better understanding of alternative processes and measures that will avoid expensive peer review hearings and reports unless truly necessary and required.

To view the presentation slides, click [here](#).

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### **An Advanced Look at the New NPDB Guidebook**

This webinar presentation provides practical insights and recommendations on how to comply with National Practitioner Data Bank (NPDB) reporting and querying requirements that were issued in its new and final Guidebook. It also examines how the NPDB interprets and intends to enforce the various Data Bank standards, among other areas, as well as what actions constitute an "investigation" for purpose of reporting.

To view the presentation slides, click [here](#).

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### **Making the Most of the New IRS Management Contract Safe Harbors**

This webinar highlights how the Internal Revenue Service (IRS) has expanded the management contract safe harbors in a way that allows 501(c)(3) health care organizations greater flexibility in structuring management contracts with private and for-profit entities. The presentation also addresses the application of this guidance and explores the ways in which hospitals and health systems can take advantage of the new opportunities that have arisen.

In addition, the webinar addresses:

- Background of the safe harbors: evolution, legal context and major principles issued in Notice 2014-67;
- Application of the safe harbors: examples and analysis;

- Work-arounds when the safe harbors don't fit: generic exceptions in the law, customized exceptions in IRS rulings and new rules on the horizon; and
- Interfacing with the IRS: obtaining a ruling, defending an audit, and negotiating a settlement.

To view the webinar, click [here](#).

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## **The 60-Day Rule: When Does the Clock Start Ticking After the Kane Ruling**

This presentation highlights:

- the 60-Day Rule for reporting and refunding overpayments and its statutory requirements;
- types of "overpayments";
- the proposed rule for reporting and returning overpayments;
- the Kane ruling and when is an overpayment "identified"; and
- implications for providers, including practical tips for reducing enterprise risk.

To view the presentation slides, click [here](#).

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## **OSHA Provides Guidance on Health Care and Nursing Facility Enforcement Initiative**

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## **Tackling the Tough Issues in Health Care Law and Compliance**

This presentation highlights what the new US Office of Inspector General guidance means for health care organizations, hot topics in HIPAA and cybersecurity, and avoiding non-monetary compensation pitfalls for physicians and vendors.

To view the presentation slides, click [here](#).

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## **Managing Institutional Risk: Fraud-Proofing Your Organization**

This presentation provides practical guidance on risk education strategies, based on recent case law developments, enforcement initiatives and lessons from representing health care organizations in *qui tam* suits, internal investigations and self-disclosures.

To view the presentation slides, click [here](#).

### **Transactions**

## **Besides Being a Good Radiology Group, Are We Doing Everything We Can Be Doing?**

This presentation examines provider agreements and other arrangements, including mergers, joint ventures, sales and physician practice management company affiliations.

To view the presentation slides, click [here](#).

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## **Thoughts from a 'Premarital' Counselor on How to Have a Successful Marriage (Merger)**

This presentation provides an overview on radiology group mergers, including a look at the process, alternatives and legal hoops involved.

To view the presentation slides, click [here](#).

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## **Ethical Responsibilities in Health Care Transactions**

This webinar reviews some of the general rules of ethics and discusses how these rules apply to negotiation and disclosure during transactions. The presentation also analyzes specific health care examples, both in the form of hypothetical situations and drafting problems, and examines effective ways to approach these situations.

To view the webinar recording, click [here](#).

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## **Provider Alignment Opportunities: When a Merger Is Not a Viable Option**

The webinar provides an overview of transaction options and their legal/business pitfalls to spur strategic thinking by providers, investors and their legal counsel.

In addition, it addresses the following topics:

- reasons to consider an alternative alignment model;
- specific models, including joint operating companies, vertical integration plays, population health management initiatives and retail medicine strategies;
- financial and legal considerations; and
- the importance of a common vision and the need for upfront agreement on a strategic plan.

To view the webinar, click [here](#).

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## **Outpatient Ancillary Services: Creative Structures for Competing Into the Future**

This presentation focuses on deal structures for outpatient ancillary services, what the alternatives require and the differences among the key structures.

To view the presentation slides, click [here](#).

## Employment Issues

### Employment Challenges in Medical Practices

The “Employment Challenges in Medical Practices: Ten Tips to Minimize Liability and Better Manage Your Workforce” webinar examines topics such as:

- employee handbooks;
- employee complaints;
- hiring and firing employees;
- age-based policies;
- employee classification and pay;
- independent contractors and joint employers; and
- employment issues in acquisitions.

To view the presentation slides, click [here](#).

## Hospital/Physician Relations

### Questioning Discoverable Data In Negligent Credentialing Suits

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### Utilizing Proctors for Competency Evaluations

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## **ACO/CIN Provider Denials and Terminations: Procedural Protections, Immunities and Databank Reporting**

This presentation examines common challenges faced in physician terminations, including:

- clinical networks and Accountable Care Organizations (ACO) questions regarding how to terminate substandard or under-performing practitioners while limiting risk of antitrust, civil rights or state court litigation;
- whether the federal and state privileges and immunities that protect hospital privileging actions extend to ACOs and CINs (Clinically Integrated Networks);
- should ACOs/CINs elect to participate in the Databank reporting system and gain the immunity protection of the Healthcare Quality Improvement Act, and do the risks, headaches and cost outweigh the potential benefits; and
- if termination for failure to achieve quality metrics or comply with clinical protocols qualify as peer review.

To view the presentation slides, click [here](#).

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## **Disruptive, Aged & Impaired Physicians Legal Updates**

This presentation focuses on defining what is disruptive and impaired behavior, in addition to:

- main impediments to addressing unprofessional behavior;
- components of successful policies;
- legal standards;
- joint commission and bylaw standards;
- data bank and state reporting requirements;
- negligent credentialing/malpractice issues;
- confidentiality and HR employment issues;

- after-care issues; and
- how to respond to third-party inquiries.

To view the presentation slides, click [here](#).

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## **Final Medicare Medical Staff Conditions of Participation: What Should Be in Your Bylaws**

This presentation examines information from the Centers for Medicare & Medicaid Services (CMS) and its impact on:

- hospital governing boards;
- which practitioners can be appointed as members of hospital medical staffs;
- options to create a single, unified and integrated medical staff in a multi-hospital system;
- hospital board and staff interactions;
- medical staff voting processes;
- options to create a separate medical staff;
- serving different patient populations and other unique circumstances; and
- who can order hospital outpatient services.

To view the presentation slides, click [here](#).

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## **Hospital Contracting: The Radiologist's and the Attorney's Perspectives**

This presentation provides attorneys with insight on identifying the important elements of hospital professional services agreements, including radiology contracts; negotiation principles that will benefit radiologists when interacting with hospital administrators; and the roles of radiologists and attorneys in hospital contract negotiations.

To view the presentation slides, click [here](#).

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## **Fundamentals of Hospital Medical Staff Issues: Minimizing Risk and Maximizing Collaboration**

This presentation highlights issues surrounding the medical staff's relationship to the hospital, as well as the following topics:

- the function and overview of Medical Staff Bylaws, rules and regulations, and policies;
- laws and accreditation standards that apply to the medical staff, including Medicare Conditions of Participation, HCQIA, Data Bank, and confidentiality statutes;
- peer review investigations, remedial action, hearings and litigation; and
- the impact of health care reform and industry changes on the medical staff/hospital relations, including physician employment, ACOs and economic credentialing

To view the presentation slides, click [here](#).

### **Patient Safety Organizations**

#### **Overview of Patient Safety Act**

This webinar presentation is the first in the "Patient Safety Organizations: What Every Health Care Provider Needs to Know" webinar series. The presenters address the key principles, requirements, benefits and scope of protections provided under the Patient Safety Act.

To view the presentation slides, click [here](#).

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#### **PSO Standards Applied to Real-World Scenarios**

This second installment in the “Patient Safety Organizations: What Every Health Care Provider Needs to Know” webinar series examines how the PSO standards and protections apply to real-world patient scenarios.

To view the presentation slides, click [here](#).

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### **Discussion of PSO Court Cases and the Litigation Lessons Learned**

Third in the “Patient Safety Organizations: What Every Health Care Provider Needs to Know” webinar series, this presentation addresses how to maximize protections and defend against legal challenges brought by plaintiff attorneys and other third parties.

To view the presentation slides, click [here](#).

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### **PSO Update and MCCM Risk Management Demonstration, Including the New PSO Module**

This presentation provides an overview of patient safety organizations (PSOs) and reviews current cases that are setting new legal precedents regarding the discoverability of patient safety work product.

To view the presentation slides, click [here](#).

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### **Optimizing Health System Privilege and Confidentiality Protections and Improving Patient Care by Participating in a Patient Safety Organization**

This webinar presentation highlights the following patient safety organization topics:

- the value proposition for health systems and/or affiliated providers when participating in a PSO;
- how to structure health care systems, clinically integrated networks and other affiliated providers in order to benefit from Patient Safety Act protections; and
- building a Health System Patient Safety Evaluation Structure (PSES) to support a culture of safety and improved patient safety outcomes.

To view the presentation slides, click [here](#).

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## **Maximizing Privileges for Peer Review Activities – State Law Protection or the Patient Safety Act?**

The presentation addresses significant patient safety organization (PSO) legal decisions, lessons learned and questions raised.

To view the presentation slides, click [here](#).

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## **Protecting Patient Safety Is Critical**

### **Health Information Privacy and Security**

## **The First 48 Hours: Responding to a Data Breach in 2015**

The presentation addresses the uptick in data breaches directed at companies of various sizes. Panelists will discuss responding to data breaches, differences in jurisdictional requirements, encryption, notification procedures, liability and insurance considerations.

To view the presentation slides, click [here](#).

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## CONTACTS

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