

Health Care Perspectives

April 2017

With deep experience in the health care industry and a comprehensive understanding of its diverse participants, [Katten](#) attorneys serve as conference moderators and panelists, host accredited events, and produce webinars to keep clients and other health care professionals informed on the most critical and relevant topics in the industry. Here is a list of our [complimentary seminar topics](#).

Regulation shifts and legal challenges abound in the health care industry, covering a multitude of topics, including regulatory and compliance, transactions, hospital/physician relations, employment issues, patient safety organizations, and health information privacy and security. This publication provides a single convenient resource to access Katten's broad range of presentations, articles and advisories to help you stay abreast of the issues. Click on the links below to access our recent materials and [here](#) for a comprehensive list.

Regulatory and Compliance

Conducting an Effective Internal Investigation: Tools To Avoid Potential *Qui Tam* Filings and Developing Effective Enforcement Responses

This presentation addresses the following topics:

- Steps health care providers can take to prepare for the inevitable: sound compliance policies, investigation protocols and emergency response plans
- How to determine who needs to be involved: roles and responsibilities of legal, compliance and management
- Key considerations for scoping, planning and documenting the investigation
- Investigational interview best practices
- Appropriate resolution: root cause analysis, corrective action and reporting considerations

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

Enforcement Trends – Part I: 'Hot' Compliance and Other Legal Issues (PLUS Common Mistakes that Radiology Businesses Make)

This presentation examines how compliance and other legal considerations are forcing radiology businesses to make changes to how they operate. The topics addressed include:

- "Hot" compliance laws and other legal issues
- Common compliance mistakes
- Tips for more effectively managing regulations and planning for future requirements

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

Enforcement Trends – Part II: When You Identify a Compliance Failure, What Next? (PLUS What to Do When the Feds Come Knocking)

This presentation explores:

- The affirmative repayment obligation under the Affordable Care Act (ACA)
- The pros and cons to the various approaches for responding to a compliance failure
- What to do when the Feds "come knocking"

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

Tackling the Tough Issues in Health Care Law and Compliance

This presentation addresses the following topics:

- A refresher on the False Claims Act (FCA)
- *Escobar* and its impact on the 7th Circuit law
- Practical pointers for reducing risk
- Internal compliance enforcement with top executives and board members
- Ransomeware
- Tips for developing a Data Incident Response Plan (DIR Plan)

- Practical pointers for internal compliance enforcement with restrictive covenants

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

The Game's Afoot in Reimbursement Changes: Site Neutrality and MACRA

This presentation covers the following topics:

- Site Neutrality – where does it apply and what are the consequences?
- MACRA and its major implications for physician and provider reimbursement and compensation
- New value-based payment models under MACRA, including MIPS, APMs and PFPMs
- Legal and strategic considerations for compliance and transactional opportunities under these new laws

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

Minimizing Stark Law Execution Risks

The presentation examines the most complex Stark Law issues facing health systems and physician groups. Discussion topics included:

- Fair market pitfalls
- Practical safeguards against non-compliant payments
- Physician group practice structures
- Ethical quandaries for in-house counsel
- Stark Law implications of losses and subsidies and prevention of rogue arrangements

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

DOJ Publishes Guidance on Best Practices for Compliance Programs

Transactions

Negotiating Hospital Contracts (the Radiologist and the Attorney Perspectives)

This presentation covers key legal considerations, important provisions of exclusive provider agreements, negotiating strategies, responses to some things hospitals say these days, and strategies for when negotiations fail.

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

Valuation Issues Related to Clinically Integrated Networks and ACOs

This webinar provides an overview of the common issues and pitfalls related to start-up funding, capitalization, provider participation, incentive distributions, and sale of equity/membership interests in ACOs and CINs.

Discussion topics include:

- Regulatory considerations driving the need for CIN business valuations and fair market value analysis for ACO/CIN financial relationships
- The elements of a sound ACO/CIN business valuation analysis, including revenue production capabilities, comparables and intangible asset values
- The compliance risks of hospital/health system funding of a CIN start-up and operating costs and strategies for mitigating those risks
- Common fair market value and commercial reasonableness questions and pitfalls related to CIN physician compensation and incentive distribution methodologies
- Ways that the new administration's potential approach to Affordable Care Act initiatives and value-based purchasing in general may impact CIN valuation and compensation issues

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

'To Be or Not to Be' Affiliated With a Radiology Physician Practice Management Company (PPMC)

Site Neutrality: The Impact on Outpatient Imaging Strategies With Hospital Partners

These presentations address how to:

- Analyze how radiology is measured, valued and reimbursed in alternative medical systems from ACOs to the VA

- Develop a detailed understanding of the threats to radiology practices posed by governmental changes, corporations and changing hospital patterns
- Receive insider briefings on how the ACR's advocacy group, economics commission and the Neiman Policy Institute can help you and your practice
- Discuss how updated and novel forms of IT can help you in achieving your goals within your practice as well as with hospitals and other allied partners
- Prepare for the next waves of change in the private sector

To view the presentation slides for "To Be or Not to Be' Affiliated with a Radiology Physician Practice Management Company (PPMC)," click [here](#).

To view the presentation slides for "Site Neutrality: The Impact on Outpatient Imaging Strategies with Hospital Partners," click [here](#).

Private Equity Looks To Be Innovative in Health Care

Hospital/Physician Relations

Privileging Nightmares and the Legal Ramifications

This presentation provides legal perspectives on:

- Qualifications/criteria
- Special or advanced privileges
- Current training requirements
- FPPE/OPPE policies and their intent
- CMS November 2004 letter
- Laundry lists versus core privileges

It also addresses the increased legal liability related to noncompliance with privileging requirements as well as how to maximize peer review privilege protections.

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

Scope of State Peer Review Statutory Privileges Beyond Hospital Medical Staffs—Peer Review in Physician Groups, ACOs, CINs and PHOs

This presentation explores the following topics:

- State peer review privilege laws and other statutes regarding hospital medical staff committees (sometimes ASCs and SHFs)
- Peer review privilege waivers
- Hospital-affiliated physician group protections
- PSO case studies and the AHRQ process
- Peer review's impact on risk reduction and patient
- Quality metrics for payers

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

Legal Update: Review of Key Legal Decisions and Their Impact on Medical Staff Professionals

This presentation examines major case law and regulatory developments and how they impact the privilege and credentialing of physicians, APNs, and other practitioners. It identifies and outlines recommended changes to existing practices, bylaws, and other related policies in order to maximize compliance with standards as well as existing immunity, privilege, and confidentiality protections.

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

New Data Bank Guidebook: Clarifications and Challenges

This presentation on the new data bank guidebook covers the following topics:

- What is considered an "investigation" for Data Bank reporting purposes?
- Can the hospital and medical staff define for itself when an investigation is triggered?
- When is the imposition of a proctoring requirement reportable?
- When can a Data Bank report be shared, or not, within a multi-hospital system?
- Is a hospital required to query the Data Bank even for medical staff members who do not have any clinical privileges?

- Is a Data Bank report discoverable in a medical malpractice corporate negligence case?
- Is taking a leave of absence now reportable?

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

Negligent Credentialing & MSSP Role in Hearings

This presentation addresses negligent credentialing and the role of the Medical Service Professionals (MSSP) in hearings.

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

Credentialing and Privileging of APNs and PAs

This presentation addresses the credentialing and privileging of advanced practice nurses (APNs) and physician assistants (PAs), including a statistical overview of APNs/PAs and applicable legal standards governing APN/PA credentialing and privileging.

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

Illinois Supreme Court Upholds "Willful and Wanton" Immunity Protection in Peer Review Cases

ED Peer Review Information Can Land in Plaintiff Attorney's Hands

Patient Safety Organizations

Impact of Recent PSO Regulatory and Legal Developments on PSOs and Participating Providers – Part One: Overview and Impact of Recent PSO Guidance and Guides on PSOs and Providers

Part one of this two-part webinar series entitled "Impact of Recent PSO Regulatory and Legal Developments on PSOs and Participating Providers" provides an overview and impact analysis of recent PSO guidance and guides on PSOs and providers. The webinar includes an overview of the

Agency for Healthcare Research and Quality's (AHRQ's) "Guides for PSOs and Providers for Determining Parent Organizations and Affiliated Providers" and "Guidance Regarding Patient Safety Work Product and Providers' External Obligations," and how they directly impact PSOs and providers.

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

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

To view the *BH v. Agee & Closure* document, click [here](#).

Impact of Recent PSO Regulatory and Legal Developments on PSOs and Participating Providers – Part Two: Practical Application of Patient Safety Act Standards to Adverse Event Scenarios

Part two of this two-part webinar series entitled "Impact of Recent PSO Regulatory and Legal Developments on PSOs and Participating Providers" reviews the practical application of Patient Safety Act standards to adverse event scenarios. This webinar addresses the impact of the Agency for Healthcare Research and Quality's (AHRQ's) "Guides for PSOs and Providers for Determining Parent Organizations and Affiliated Providers" and "Guidance Regarding Patient Safety Work Product and Providers' External Obligations," and recent case law developments on various adverse event scenarios. It also identifies steps to maximize privileged protections and avoid improper disclosures of patient safety work product (PSWP).

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

Design and Implementation of Your PSES: A Dialog About Maximizing Protection and Improving Patient Care

This keynote-address presentation covers the following topics:

- A brief overview of the industry movement towards reimbursing providers based on value versus volume
- An overview of the Patient Safety Act and what PSWP and PSES are
- An overview of the HHS Guidance
- The impact of the Guidance on PSES design and resulting options

- A discussion of *Clouse* and pending PSO state supreme court cases
- A comparison of Texas and Patient Safety Act privilege practice protections

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

What Every Medical Staff Professional Needs to Know About Patient Safety Organizations (PSOs)

This presentation addresses the January 2017 requirement that hospitals with more than 50 beds providing services to patients covered by state insurance exchanges participate in PSOs under the Patient Safety and Quality Improvement Act. It includes key principles, requirements and the scope of protections, and addresses how compliance with this federal law will affect daily responsibilities.

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

Unique Advantages and Protections Offered by PSOs to Improve Patient Care

This presentation covers the following questions:

- How does participation in a PSO improve quality and reduce patient risk?
- What patient safety activity information can be protected?
- What operational steps are needed to implement participation in a PSO?
- What steps to take in order to maximize privilege protections?

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

Impact of the HHS PSO Guidance on Advancing Quality and Maximizing Privilege Protections With a PSES Policy

This presentation addresses the need for hospital administrators and other providers to reassess, and possibly, recalibrate the design of their respective patient safety evaluation systems (PSES) in response to recent guidance from the Health and Human Service Department's (HHS) Office for Civil Rights (OCR) and Agency for Healthcare Research and Quality (AHRQ).

Topics include:

- An overview of the HHS guidance
- The impact of PSO cases and the guidance on PSES design
- Observations by in-house counsel in response to the Guidance
- Recommendations for maximizing federal privilege protections
- Getting started on and improving a PSES

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

Florida Supreme Court Rules That Hospital "Adverse Medical Incidents" Reported to a PSO Are Not Privileged From Discovery: Impact on Participating Providers and PSOs

New PSO Guidance Raises Questions Over Patient Safety Work Product Privilege

Improving Patient Safety Reporting With the Common Formats: Common Data Representation for Patient Safety Organizations

Patient Safety Organizations: What Every MSP Must Know

Health Information Privacy and Security

HIPAA Administrative Simplification Rules for Employers and Their Group Health Plans

Is Your Business Prepared for the Ransomware Epidemic? [Health Care as a Case Study]

OCR Kicks Off HIPAA Audits After Issuing Two Major Settlements

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