

# Hospital-Physician Relations and Medico-Legal

## Overview

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From peer review privileging to patient safety organizations, there are regulatory and competitive factors coming from all directions in the health care industry. Katten's Health Care team has the knowledge, experience and resources to help health care organizations keep focus on the business of patient care service delivery and all of its corporate, regulatory and legal implications.

### Empowering Better Outcomes by Managing Legal Matters

Our Health Care team is committed to achieving successful and cost-efficient outcomes for our clients. Whether you are a board member, compliance or privacy officer, or in-house legal counsel, CEO or C-Suite Officer, we work with you to protect your interest and achieve your business goals.

Because of our comprehensive understanding and experience serving the health care industry, we are sought out as a leader in hospital-physician relations and medico-legal issues, including the matters below.

- Physician Relations
- Physician employment and recruitment
- Physician compensation
- Exclusive contracts
- Medical staff development plans
- Emergency department coverage and compensation arrangements
- Clinical integration and antitrust
- Medical staff bylaws, rules and regulations
- Medical staff mergers and integration
- Allied health professionals
- Medical group representation

### Credentialing and Peer Review

- Accountable care organizations (ACOs) privileging and credentialing
- Hospital licensure and accreditation

- Peer review/performance improvement policies and procedures
- Peer review investigations, hearings and litigation
- Medical Staff compliance audits and plans

## Regulatory

- Patient safety organizations (PSOs) and all aspects of the Patient Safety Act
- Health Insurance Portability and Accountability Act (HIPAA) compliance and investigations
- Medico-legal issues including do-not-resuscitate (DNR), end-of-life and similar patient care quality improvement and risk management issues
- Emergency Medical Treatment and Active Labor Act (EMTALA) compliance and investigations
- Compliance with Medicare Conditions of Participation
- Development of policies to maximize state and federal privilege protections

## Investigations and Litigation

- Hospital liability involving corporate negligence and governmental investigations, and enforcement actions based on claims of substandard care, "worthless services" and the False Claims Act
- Health care civil litigation
- White collar investigations and litigation
- Hospital/medical staff disputes
- Data Bank and state disciplinary reporting

## Our Experience

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- Participate in review of, and revisions to, medical staff bylaws, rules and regulations, and policies such as Codes of Conduct and Disruptive Behavior for more than 200 hospitals in Chicago and around the country including academic medical centers, and suburban and critical access hospitals.
- Involvement in over 200 peer review hearings and thousands of peer review issues and investigations for hospitals in Illinois and several out-of-state hospitals.
- Successful defense of hospitals and medical staffs in more than 100 state and federal credentialing lawsuits.
- Assistance to health care systems in consolidating medical staffs subsequent to a merger and revision of leadership structure and bylaws.
- Mediator and consultant in disputes between hospital and medical staff, including physician groups.

- Advise health care clients on a range of hospital-physician relations issues. Includes physician employment and recruitment, physician compensation, exclusive contracts, medical staff development plans, hospital licensure and accreditation, emergency department coverage and compensation arrangements, medical staff bylaws, peer review, hospital/medical staff disputes, ACO privileging and credentialing, allied health professionals, medical staff mergers and integration, and Data Bank and state disciplinary reporting
- Special counsel to state Hospital Association on various statutory initiatives affecting hospital/physician relations in areas of employment, exclusive contracts, restrictive covenants, medical staff credentialing, the Hospital Licensing Act and Medical Studies Act.
- Assistance to PSOs and their participating providers with respect to certification and recertification by Agency for Healthcare Research & Quality (AHRQ) and compliance with Patient Safety and Quality Improvement Act of 2005.
- Represent health care providers and PSOs in major state appellate and supreme court decisions, including US Supreme Court, involving interpretation of privilege provisions under Patient Safety Act as applied to PSOs and providers.
- Represent hospitals in accreditation investigations and hearings.
- Appointment as hearing officer in fair hearing proceedings.
- Develop information-sharing policy allowing multi-hospital systems to share confidential peer review information in compliance with state law.
- Counsel in connection with conducting audits of health care clients to review and evaluate sensitive quality assurance/performance improvement/peer review documents to take steps to maximize protection under state and federal confidentiality and privilege statutes.
- Represented clients in Centers for Medicare & Medicaid Services, state public health and Office of Inspector General complaints against hospitals alleging EMTALA violations.
- Represent hospitals and medical staffs in dealing with disruptive, aged and impaired physicians.
- Successfully represent hospitals in responding to Office for Civil Rights HIPAA complaints and investigations.
- Represent hospitals in accreditation hearings and disputes with The Joint Commission regarding preliminary denials of accreditation and other accreditation matters.

## Key Contacts

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**Michael R. Callahan**  
*Senior Counsel*

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Chicago  
+1.312.902.5634  
michael.callahan@katten.com

## Recognitions

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*Recognized or listed in the following:*

- *Chambers USA*
  - Healthcare: Highly Regarded
    - Nationwide, 2021
  - Healthcare
    - Illinois, 2006–2021
    - New York, 2006–2021
    - Texas, 2019–2021
- The Legal 500 United States
  - Healthcare
    - Service Providers, 2016–2021
- *U.S. News Best Lawyers – "Best Law Firms"*
  - Health Care Law
    - National, 2013–2022
    - Chicago, 2011–2022
    - Dallas/Ft. Worth, 2020–2022
    - New York, 2011–2022