

Healthcare

The members of Hancock Estabrook's Healthcare Practice are the attorneys of choice for diverse healthcare providers in Central and Upstate New York, including hospitals, health systems, continuing care retirement communities, nursing homes, doctors, medical practices, dentists, nurses, laboratories, health centers and clinics. Whether the issue is corporate governance, Medicaid and Medicare compliance, or complex business transactions such as mergers, acquisitions, joint ventures and affiliations, the experience and insight of Hancock Estabrook's health lawyers guide our clients through the highly regulated and challenging business of delivering health care in New York, all without losing sight of the most important thing – our clients hold peoples' lives in their hands.



Corporate Governance

We serve as general counsel to many corporations which deliver healthcare services. Working with attorneys in Hancock's other substantive areas, we offer clients well-rounded legal teams attuned to the needs of small healthcare companies and medical practices, as well as complex healthcare systems. We advise both not-for-profit tax-exempt and for-profit clients on governance, corporate compliance and other operational and regulatory matters. Representative corporate governance matters on which we advise our clients include:

- Drafting and maintaining corporate records, including certificates of incorporation, articles of organization, bylaws, operating agreements, corporate resolutions and minutes
- Creating and restructuring single and multi-corporate systems, including mergers, joint ventures and affiliations
- Drafting and implementing conflict of interest policies and procedures for Boards, executive employees, management and medical staffs
- Advising clients on operationalizing and implementing the requirements of New York State's Non-Profit Revitalization Act
- Assisting in the construction, evaluation and defense of executive compensation packages, including drafting executive employment, benefits and severance agreements
- Advising clients on tax-exemption issues including the filing tax-exemption applications (IRS Form 1023) with the Internal Revenue Service, registering with the Charities Bureau of the New York State Attorney General's Office and applying for property and sales tax exemptions
- Providing efficient and concise Corporate Compliance training for Boards, senior leadership, management and medical staffs

Healthcare Compliance, Fraud & Abuse

Our health attorneys rigorously monitor emerging legal issues and trends in healthcare regulation, compliance and enforcement. With decades of experience as the top health law professionals in the region, our attorneys have unrivaled hands-on experience with federal and state regulation of healthcare delivery and healthcare providers, including the federal physician self-referral prohibition or Stark regulations, fraud and abuse and anti-kickback laws, Medicare and Medicaid compliance, and violations of the federal False Claims Act. Representative healthcare compliance, fraud and abuse matters on which we advise clients include:

- Drafting and implementing corporate compliance programs which satisfy Medicare and Medicaid standards, including navigating “effectiveness” compliance audits conducted by the New York State Office of the Medicaid Inspector General (OMIG)
- Legal oversight and advice on internal compliance audits and investigations, as well as external inquiries, such as document requests from OMIG and tax-exempt bond audits by the Internal Revenue Service
- Representing clients in audits, self-disclosures and enforcement actions before the Office of the Inspector General for the United States Department of Health and Human Services (OIG), OMIG, the New York State Attorney General’s Medicaid Fraud Control Unit (MFCU), the United States Department of Justice, the federal Centers for Medicare and Medicaid Services (CMS) and the New York State Department of Health (DOH)
- Keeping clients apprised of trends and new issues arising in federal and state whistleblower actions and other enforcement efforts
- Negotiating settlement agreements with government enforcement agencies
- Representing clients in licensure actions before the New York State Office of Professional Discipline and the New York State Office of Professional Medical Conduct

Healthcare Contracts & Transactions

Our knowledge of healthcare regulations proves invaluable in advising clients on healthcare transactions and contracts, from simple vendor contracts to complex affiliation agreements. While we have extensive experience in drafting, reviewing and revising contracts common to most healthcare delivery transactions, we also construct and implement complex and unique business transactions with vendors, independent contractors, third-party payors and other healthcare providers. Representative transactional and contracting matters on which we advise clients include:

- Drafting and interpreting various physician agreements including employment, call-coverage, medical director, independent contractor, physician recruitment and exclusive provider agreements
- Reviewing and proposing revisions to third-party payor agreements, including commercial insurance and managed care contracts (HMO, PPO, TPA, etc.)
- Advising on Medicare, Medicaid and third-party payor enrollment, reimbursement and participation termination challenges
- Representing clients in sophisticated and complex mergers, acquisitions and joint ventures, including physician practice acquisitions by hospitals and health systems, ambulatory surgery agreements, space-sharing arrangements, employee leases, professional services agreements, exclusive provider agreements, etc.

- Advising clients on structuring and implementing telemedicine agreements
- Advising lead agencies and participating providers in New York state Medicaid Delivery System Reform Incentive Payment (DSRIP) Program-related matters
- Conducting legal due diligence and securing legally-required approvals in major corporate transactions
- Representing clients through corporate financing and refinancing projects, including taxable and tax-exempt financing, and Dormitory Authority financing, including the Tax-Exempt Equipment Leasing Program (TELP)
- Drafting, revising and interpreting outside and third-party vendor, consultant and services agreements

Patient Care and Medical Information

The practice of health law is still, in the end, about patients. Our health attorneys are always available to our clients when difficult and sensitive issues involving patients, their families and their private information arise.

Representative patient care and confidentiality issues on which we advise clients include:

- Patient treatment issues such as health care proxies and agents, guardianships for those without capacity, surrogate decision making and the Family Health Care Decisions Act, emergency treatment, informed consent and end of life decision-making
- Release of private patient information including protected health information, reporting loss or unauthorized releases of private information including pre- and post-breach notifications, recordkeeping and overall compliance with the Health Insurance Portability and Accountability Act (HIPAA) and New York State patient privacy laws
- Responding to subpoenas and other third-party demands for patient-identifying or private information
- Treatment of minors
- Disruptive patients and visitors

Medical Staff Matters

Our health attorneys have long represented large, multi-location health service systems and therefore are well-versed in medical staff legal issues, including compliance with accrediting body requirements. Representative medical staff matters on which we have advised clients include:

- Drafting and interpreting medical staff bylaws
- Advising on disruptive physicians
- Representing medical staffs in physician discipline and corrective action proceedings
- Mandatory reporting of physicians to the New York State Office of Professional Medical Conduct (OPMC) and the National Practitioner Databank (NPDB)

- Credentialing issues, including inquiries from third-parties
- Subpoenas seeking medical staff records and files
- OPMC and Department of Health inquiries regarding members of the medical staff

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