

29TH ANNUAL
HEALTH LAW CONFERENCE



April 5*, 6–7, 2017

*Pre-Conference Concurrent Sessions: Fundamentals and In-House Counsel Issues

Royal Sonesta Hotel ■ Houston, Texas

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Earn up to 13.75 Hours of Credit Including 2.00 Hours of Ethics Credit

Pre-Conference: 2.00 hrs

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TX Legal Specialization Credit Approved for Health Law

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WEDNESDAY EVENING, APR. 5, 2017

***Pre-Conference Concurrent Sessions**

Please select on registration form. Each session includes a 15-minute break.

6:00 p.m. Registration Opens

HEALTH LAW FUNDAMENTALS

7:00 p.m. 2.00 hrs

Health Law Fundamentals

Hear an introduction to basic health law with an emphasis on fraud and abuse, managed healthcare, and Medicare coverage and reimbursement issues.

Violet M. Anderson, CHRISTUS Health, Irving, TX
Kenneth J. Kramer, Texas Health Resources, Arlington, TX
Edgar C. Morrison Jr., Jackson Walker, San Antonio, TX

9:15 p.m. Adjourn

IN-HOUSE COUNSEL ISSUES

7:00 p.m. 2.00 hrs

In-House Counsel Issues

Limited to in-house counsel only, participate in active discussion and sharing among panelists and participants. Topics include, but will not be limited to, the ACA—then and now, *Stark* and false claims update, physician contracting, provider/payer relations, HIPAA, Texas hospital lien law update, and risk management/healthcare litigation updates.

Moderator:
Andy G. Navarro, CHRISTUS Health, Irving, TX

Panelists:
David H. Ellenbogen, Baylor Scott & White Health Care, Austin, TX
Deborah Gordon, Memorial Hermann Health System, Houston, TX
D. David Hearne, CHI St. Luke's Health, Houston, TX
Lisa L. Hill, Shannon Medical Center, San Angelo, TX
Lance Lightfoot, Texas Children's Hospital, Houston, TX

9:15 p.m. Adjourn

THURSDAY MORNING, APR. 6, 2017

Presiding Officer:

Yvonne K. Puig, Norton Rose Fulbright, Austin, TX

7:30 a.m. Registration Opens

Includes continental breakfast.

8:20 a.m. Welcoming Remarks

8:30 a.m. .75 hr

Emerging Trends in Healthcare

The election of Donald J. Trump is ushering in a new era for the U.S. healthcare industry, which has spent years adapting to the ACA. Yet, despite the potential policy changes in Washington, the painstaking and challenging work of shifting to value-based care will continue. This presentation highlights the forces that are expected to have the most impact on the healthcare industry in the coming year.

Benjamin Isgur, PricewaterhouseCoopers LLP, Dallas, TX

9:15 a.m. 1.25 hrs

Healthcare Year in Review

Hear an entertaining and informative overview of important healthcare developments in the past year, including court decisions, regulatory changes, politics, and policy initiatives.

Jack S. Schroder Jr., Retired, Alston & Bird LLP, Big Canoe, GA

10:30 a.m. Break

10:45 a.m. .50 hr

Stark Law Update

Listen to an update of the statutory, regulatory, case law, administrative, and enforcement initiatives as related to the Stark Law.

Donna S. Clark, Baker & Hostetler LLP, Houston, TX

**M
C
L
E**

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.75 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and a MCLE presumptively-approved provider by the Supreme Court of the State of Louisiana (#0553) and the Oklahoma Bar Association (#169).

11:15 a.m. .75 hr

National and Texas Trends and Developments for Health Plans and Providers

Identify plan and provider strategies to control cost and quality, evaluate the state of the healthcare exchange and insurance market, and review current events and likely developments as Congress takes on the ACA.

Janet Walker Farrer, Ascension Health, Austin, TX
Leah Stewart, Beatty Bangle Strama, P.C., Austin, TX

12:00 p.m. .75 hr

Hospital, Physician and Payer Alignment: Trends and Strategies

Explore the current alignment and consolidation trends among hospitals, physicians, and payers amidst the backdrop of regulatory uncertainty.

Lisa Atlas Genecov, Norton Rose Fulbright, Dallas, TX
Michael Hicks, University of North Texas Health Science Center, Fort Worth, Texas
Kenneth J. Kramer, Texas Health Resources, Arlington, TX

12:45 p.m. Break

THURSDAY AFTERNOON

Presiding Officer:

Kenya S. Woodruff, Haynes and Boone, LLP, Dallas, TX

Optional Table Topics Luncheon

Join a discussion group with conference faculty and fellow registrants. See registration form to select a Table Topic and purchase your ticket for lunch.

1:05 p.m.

TOPICS:

- A:** HIPAA Update
- B:** Stark and Anti-Kickback Issues
- C:** Telehealth Questions and Answers
- D:** Physician/Hospital Relationships and Payments

1:50 p.m. Break

ABOUT THE COVER

Genki, digital art is by John Schellenberg

CONCURRENT TRACKS

TRACK A

2:00 p.m. .75 hr | .50 hr ethics

Anatomy of the Healthcare Transaction

Although healthcare transactions often vary dramatically, many aspects are consistently similar. Hear a nuts and bolts discussion of the necessary elements of a healthcare transaction, including a review of the common issues that arise in the negotiation of any transaction, the typical catalog of documents that are utilized in most transactions, and the drafting issues involved in those documents.

Mark D. Folk, Broad and Cassel LLP, Boca Raton, FL
Jessica LaManna, Universal Health Services, King of Prussia, PA

2:45 p.m. .75 hr

Physician-Owned Entities

New healthcare delivery and management models are emerging that include entities with physician ownership. This presentation focuses on those arrangements and associated legal issues.

Diane T. Carter, Husch Blackwell LLP, Austin, TX
Cybil G. Roehrenbeck, Polsinelli PC, Washington, DC

3:30 p.m. Break

TRACK B

2:00 p.m. .75 hr | .50 hr ethics

Regulatory and Operational Hot Button Issues

A discussion of the variety of operational, regulatory, and ethical issues relating to on-call arrangements, electronic health records, discrimination, and non-physician practitioners.

Moderator:
Kathy L. Poppitt, King & Spalding, Austin, TX

Panelists:
Susan F. Monaco, Tenet Healthcare Corporation, Dallas, TX
Allison D. Shelton, Brown & Fortunato, P.C., Amarillo, TX

2:45 p.m. .75 hr

MACRA, MIPS and More: Making it all Manageable

2016 saw the publication of the MACRA proposed rule, the receipt and review of over 4,000 public comments, and the publication of the final rule. Its provisions contain requirements that fundamentally will change payment of healthcare for Medicare Part B services, impacting both those providers and organizations that contract with them. While payment changes do not go into effect until 2019, those payments will be based off of data created and gathered in 2017. Thus, the time is now. This presentation focuses on understanding the fundamental MACRA platform, focusing on the MIPS portions; the implications of these vast changes, including changes to behavior, delivery of care, operations, finances, and beyond; and the reality of the transition for the near future.

David W. Hilgers, Husch Blackwell LLP, Austin, TX
Sidney S. Welch, Polsinelli PC, Atlanta, GA

3:30 p.m. Break

3:45 p.m. 1.00 hr | .50 hr ethics

Recent Trends in the False Claims Act and Government Enforcement

2016 proved to be a game changer in the area of False Claims Act (FCA) litigation and government enforcement. One of the most significant events of the year was the Supreme Court's issuance of *Universal Health Services v. U.S. ex rel. Escobar*, a decision that declared implied certification theory the law of the land but also established a complex and rigorous materiality standard with which lower courts will grapple for years. In addition, 2016 saw the DOJ's implementation of the Yates Memo, the DOJ's interim final rule doubling penalties under the FCA, the Supreme Court's decision declaring that a whistleblower's violation of the seal does not result in automatic dismissal, and CMS's issuance of the final Medicare Parts A/B 60 day rule. Hear a detailed overview of these and other significant developments in the ever-evolving area of government enforcement in the healthcare industry.

B. Scott McBride, Baker & Hostetler LLP, Houston, TX
Adam Robison, King & Spalding, Houston, TX

4:45 p.m. 1.00 hr

Telehealth: Tackling Technology's Legal and Ethical Impact on Healthcare

Telehealth is no longer a concept but a reality for providers, payors, employers, and entrepreneurs who are all being presented with emerging technologies that enhance access, improve efficiencies, and reduce costs associated with healthcare. With these new advances in telehealth and telecommunications technologies come an array of legal and ethical issues. Explore these technologies, including evolving audio and visual telecommunications, wearables, mobile medical apps, medical devices, robotics, artificial intelligence, and virtual reality.

Sheryl T. Dacso, Seyfarth Shaw LLP, Houston, TX
Julian L. Rivera, Husch Blackwell LLP, Austin, TX

5:45 p.m. Adjourn

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NETWORKING RECEPTION

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5:45 p.m. - 6:45 p.m.

Join us for drinks and hors d'oeuvres with program faculty and attendees.

Presiding Officer:

Mary M. Bearden, Brown & Fortunato, P.C., Amarillo, TX

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. 1.00 hr

Operational Impact of Significant Cases

Take an in-depth look at key legal developments and significant cases affecting healthcare operations, including credentialing and liability issues that impact hospitals and providers. Receive a comprehensive review of recent decisions affecting the liabilities and duties of healthcare providers in the written materials.

Yvonne K. Puig, Norton Rose Fulbright, Austin, TX

9:30 a.m. .75 hr

Employment Law: The Modern Mobile Workforce

The modern workforce is exceptionally mobile, with an increasing number of employees able to perform their duties from virtually any location. Explore the security, privacy, and medical accommodation issues associated with allowing employees to work in the open and in the wild.

Jason Boulette, Boulette Golden & Marin L.L.P., Austin, TX
Kimberly S. King, CHRISTUS Health, Irving, TX

10:15 a.m. Break

10:30 a.m. .75 hr

The Realities and Future of Payment and Delivery Reform

Concern over rising healthcare costs and increased coverage resulted in the passage of the ACA in 2010. While the future of the ACA is uncertain, it is highly likely that payers, including the government, will continue to seek ways to drive down healthcare costs through payment and delivery reform. Gain insights into the operational realities, legal issues and pitfalls, and successes and failures involved in these healthcare models. Hear updates and details relating to the creation of clinically integrated networks, care coordination entities, accountable care organizations, and other strategies being used to increase efficiency and provide quality care. Explore the successful contracting techniques in today's payer environment, the legal issues of developing and operating a risk-based network, and how employers are reacting to the decrease in their healthcare costs.

Moderator:

Susan Feigin Harris, Baker & Hostetler LLP, Houston, TX

Panelists:

Ken Janda, Community Health Choice Inc., Houston, TX
Robert F. McStay Jr., Memorial Hermann Health System, Houston, TX

11:15 a.m. .75 hr

Physician Compensation and Fair Market Value

Review the legal framework for compliant physician compensation arrangements, including the key concepts of fair market value and commercial reasonableness. Examine the current regulatory and enforcement environment, and receive practical illustrations using examples of commonly observed situations in the marketplace.

Jennifer B. Claymon, Reed, Claymon, Meeker & Hargett, PLLC, Austin, TX
Chip Hutzler, HealthCare Appraisers, Inc., Delray Beach, FL
Stephen G. Wohleb, Ascension Texas, Austin, TX

12:00 p.m. 1.00 hr ethics

Legal Ethics Challenges in the World of Healthcare Cyberthreats: Law, Technology and Professional Responsibility for Healthcare Lawyers

Cyber intrusions—hacking, ransomware, and other threats—make daily headlines, and a growing number of them are aimed at healthcare organizations. Technology-driven crises also pose significant professional responsibility challenges for healthcare lawyers as they prepare to help their clients respond to tomorrow's cyberthreats today. Data breaches, disclosure issues and, of course, that really unfortunate tweet may involve an interconnected web of thorny legal, technological, and ethical issues. Hear a discussion of the latest cyber risks facing healthcare organizations and key legal ethics challenges in responding to them, along with other ethics and professional responsibility issues facing dial-up healthcare lawyers in a broadband technology world.

William W. Horton, Jones Walker LLP, Birmingham, AL
Peter S. Vogel, Gardere, Dallas, TX

1:00 p.m. Adjourn

UPCOMING CONFERENCES

43RD ANNUAL ERNEST E. SMITH OIL, GAS AND MINERAL LAW FUNDAMENTALS & INSTITUTE
APRIL 13–14, 2017 ■ HOUSTON

ROBERT O. DAWSON CONFERENCE ON CRIMINAL APPEALS
MAY 10–12, 2017 ■ AUSTIN

CORPORATE COUNSEL INSTITUTE
MAY 11–12, 2017 ■ HOUSTON

30TH ANNUAL TECHNOLOGY LAW
MAY 25–26, 2017 ■ AUSTIN

27TH ANNUAL CONFERENCE ON STATE AND FEDERAL APPEALS
JUNE 1–2, 2017 ■ AUSTIN

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Call 512.475.6700 or email service@utcle.org*

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Before the Conference: Access course materials—downloadable PDFs of papers and slides— and speaker and attendee roster in *Your Briefcase* 48 hours before the conference.

After the Conference: Unlimited access to final, complete course materials—downloadable PDFs of papers and slides—in *Your Briefcase*.

eConference: Complimentary 180-day access to the eConference—with papers, slides, and audio—for CLE credit (TX and CA) you may have missed at the live conference. Available in *Your Briefcase* 6–8 weeks after the conference.

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Bring Health Law in-house. Audio presentations and written materials for learning with your colleagues—for Texas MCLE credit. We manage the accreditation process from approval to reporting. Custom packages available.

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REGISTRATION FORM

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HL17

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Firm _____

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Telephone _____ Fax _____

Registrant's Email (required) _____

Assistant's Email (optional) _____

Invoices, confirmations, and receipts are emailed to these addresses.

REGISTRATION—Includes electronic course materials and Thursday evening reception

Special group registration rates available. Call 512.475.6700.

Select Registration Type

- Individual registration by March 29. \$595
 Individual registration after March 29. \$645

Add Pre-Conference Session—Select One \$75

- Health Law Fundamentals
 In-House Counsel Issues (Limited to In-House Counsel Only)

Add Thursday Table Topics Luncheon—Select One. \$30

- A: HIPAA Update
 B: Stark and Anti-Kickback Issues
 C: Telehealth Questions and Answers
 D: Physician/Hospital Relationships and Payments

Thursday Afternoon Concurrent Sessions—Select One:

- TRACK A: Transactional Issues in Consolidation | Physician Owned Entities
 TRACK B: Regulatory and Operational Hot Button Issues | MACRA, MIPS & More

Printed course binder available for an additional fee through March 29

Conference registration includes Electronic Course Binder Download (PDF) in "Your Briefcase" at utcle.org.

- Printed Course Binder. \$27.06
Price includes 8.25% Sales Tax
 Printed Course Binder for tax exempt registrants \$25
(e.g., government employees and nonprofits)

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HOUSTON

April 5*, 6–7, 2017

CONFERENCE LOCATION



Royal Sonesta Hotel
2222 West Loop South
Houston, TX 77027-3502
855.463.3091

Special Room Rate: \$189
good through March 11, 2017
reference "UT Law Health Conference"
(subject to availability)

Parking:
Daily Self-Parking: \$10
Overnight Self-Parking: \$16
Daily Valet Parking: \$16
Overnight Valet Parking: \$25
(subject to change)

KEY DATES

March 29, 2017

last day for early registration
add \$50 for registrations
received after this time

March 31, 2017

last day for cancellation (full refund)

April 3, 2017

last day for cancellation (partial refund)
\$50 processing fee applied

April 5, 2017, 7:00 p.m.

**Pre-Conference Concurrent Sessions begin*

April 6, 2017, 8:20 a.m.

Conference begins

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