

29th Annual Health Law Forum

October 5-6, 2017

Embassy Suites Cool Springs Hotel Conference Center
Franklin, Tenn.



Program Producer: Brian Roark, Bass, Berry & Sims PLC

Total Credits: 12 General, 3 Dual

Recognized as one of the premier health law programs in the country, this annual forum addresses key issues impacting our practice area. Sessions will provide insight from health law providers, practitioners, and regulators. A bonus feature this year will offer 2 hours of online CLE in addition to the 15 live hours. This will facilitate flexible planning for those who travel or have a scheduling conflict during one of the sessions. Watch this page for more details. This year's topics will focus on updates on fraud and abuse developments, the status of health care reform, challenges for rural providers, legislative updates, physician compensation, fraud enforcement, health care transactions, HIPAA updates, ethics, and much more.

7:15 a.m.



Registration/Welcome/Breakfast

Refreshments will be provided and sponsored by Horne, LLP

8:00 a.m.

Chair's Welcome and Introductions

Brian Roark, TBA Health Law Section Chair, Bass, Berry & Sims PLC

8:15 a.m. – 9:30 a.m.

Update on Fraud and Abuse Developments

This panel will discuss changes in fraud and abuse over the last year, including false claims act developments, anti-kickback developments, Stark law developments, exclusion actions and other developments of interest to health care lawyers and their clients.

Matthew Curley, Bass, Berry & Sims PLC

Patricia Powers, Waller Lansden Dortch & Davis, LLP

9:30 a.m. – 10:30 a.m.

Who Knew....? Health Care Reform: Past, Present, Future

Passage of the Patient Protection and Affordable Care Act in March 2010 was the Obama Administration's signature legislative achievement. Although Congressional opponents of the ACA began advocating for its repeal almost immediately after it was signed into law, the ACA remains the law of the land—and with public opinion about it sharply divided. What does the future of health care reform hold, after the recent failure of efforts to repeal the ACA? This panel will discuss the impact of some of the ACA's major provisions, the most recent unsuccessful efforts to repeal it, what the health care reform agenda for Congress and the Administration might be going forward, and how health care providers should plan in a time of great uncertainty.

Deborah Farringer, Belmont University College of Law

Darin Gordon, Gordon & Associates, LLC

Jay Hardcastle, Bradley Arant Boult Cummings LLP

Michael Regier, Vanderbilt University Medical Center

10:30 a.m. – 10:45 a.m.



Break

10:45 a.m. – 11:45 a.m.
(1.0 DUAL)

Attorney Well-Being

The presentation will discuss the impact of stress particularly on lawyers; the American Bar Association/Hazelden study on substance abuse and mental health concerns among attorneys; how to avoid stress from the Board of Professional Responsibility, general stress relief strategies and suicide prevention.

Sandra Garrett, Tennessee Board of Professional Responsibility
Laura McClendon, Tennessee Lawyers Assistance Program

11:45 a.m. – 12:45 p.m.



Lunch (on your own)

TBA Health Law Section Lunch Business Meeting
Sponsored by Chambliss, Bahner & Stophel, P.C.

12:45 p.m. – 1:45 p.m.

Rural Hospitals Face Darwin's Theory: Only the Fittest Will Survive in the Evolving Health Care World

This session will focus on the unique challenges faced by rural hospitals due to the rapidly changing health care environment, with an emphasis on over-arching strategies to address those challenges. The implementation of a strategic action plan to preserve healthcare services within a rural community will involve the understanding and unravelling of complex legal and financial structures, many of which are unique to each jurisdiction and institution. General topics include:

- The role of rural hospitals and other health care providers in this new health care world
- The industry dynamics that are forcing rural hospitals to evaluate their operations and adapt to change
- An identification of key strategies to improve healthcare in rural communities, including population health management, ACOs, employment of physicians, retail clinics, telehealth (including virtual provider/direct-to-consumer technology)
- Alignment strategies, including partnerships and alliances with other hospitals and health systems, insurers and physicians
- The important role of the board in evaluating a hospital's future

Kim Looney, Waller Lansden Dortch & Davis, LLP
Linda Rippey-Moore, Maury Regional Medical Center

1:45 p.m. – 2:45 p.m.

Litigating FCA Cases with the Department of Justice: Lessons Learned

Roger Dickson, Miller & Martin
Robert McConkey, U.S. Attorney Office for the Eastern District of Tn.
Richard Rose, Miller & Martin

2:45 p.m. – 3:45 p.m.

Tennessee Health Care Fraud Enforcement Update - Government and Defense Perspectives

The panelists will give an update on major developments and trends in health care fraud enforcement across Tennessee in the past 12 months, as well as discussing noteworthy cases nationwide. They will summarize significant settlements and criminal outcomes involving health care fraud and the impact that these could have for providers.

Jeremy S. Dykes, U. S. Attorney's Office
Ellen Bowden McIntyre, U.S. Attorney's Office, Nashville
Jennifer Weaver, Waller Lansden Dortch & Davis, LLP

3:45 p.m. – 4:00 p.m.



Break

Afternoon snack sponsored by Sherrard Roe Voigt & Harbison, PLC

4:00 p.m. – 5:15 p.m.

Tennessee Health Law and Legislative Updates 2017

This annual update will focus on hot topics impacting health care law from the 2017 session of the General Assembly as well as recap significant Tennessee state civil court cases and Attorney General Opinions affecting health care from the past year. The 2017 Legislative session resulted in several important changes in state law that health lawyers need to know about. There were changes of note to laws addressing drug screening of health care providers, the identification and sanctioning of high volume prescribers, breach notification, treatment of minor patients, public health, and abortion to name just a few. During the first segment, the panelists, representing perspectives from providers, health insurance, and facilities, will highlight the new laws affecting health care professional practice compliance, scope of practice, health insurance, and facility compliance and operations. The panel will also provide a brief look into the future as to what issues the 2018 Tennessee Legislature might take up. The second segment of the presentation will focus on major Tennessee case law decisions from Tennessee courts since the last quarter of 2016 through the summer of 2017. The panel will inform health lawyers how these decisions affect their clients. It will highlight important litigation results and look at how some intriguing cases will affect health care compliance. During the final segment, the panel will provide a survey of Tennessee Attorney General Opinions filed in 2017 of which health lawyers need to be aware. Participants will gain valuable insight into the positions the State would take on issues impacting their health care clients.

Yarnell Beatty, Tennessee Medical Association
John P. Williams, Tune, Entrekin & White PC
Mandy Haynes Young, Butler Snow

Total Hours for Thursday: 6.5 General, 1 Dual

Friday, October 6, 2017

7:30 a.m.



Registration/Welcome/Breakfast

Refreshments will be provided by HealthCare Appraisers, Inc

8:00 a.m. – 8:45 a.m.

Keynote Address: Status and Challenges of Health Care Reform

Jim Cooper, U.S. Congress, 5th District, Tennessee

8:45 a.m. – 9:45 a.m.

Structuring Physician Compensation Arrangements for Compliance in Today's Enforcement Environment

This presentation will examine the legal requirements for physician compensation arrangements and address commercial reasonableness and FMV issues. This presentation will also discuss lessons that can be learned from recent enforcement actions and will offer best practices for structuring and auditing physician compensation arrangements.

Anna Grizzle, Bass, Berry & Sims PLC
Tizgel High, LifePoint Health
Chip Hutzler, Health Care Appraisers, Inc

9:45 a.m. – 10:00 a.m.



Break

10:00 a.m. – 11:00 a.m.

What is MACRA and how does it impact Provider Payments, Alignment and Transactions?

How will MACRA change provider Medicare payments? What should you know concerning alignment options presented by MACRA? Are there considerations raised by MACRA that impact provider contracting and sale or acquisition transactions? These and other questions raised by MACRA will be addressed in this session.

Beth Pitman, Waller
Austin Weaver, Advisory Board

11:00 a.m. – 12:00 p.m.

The Rise of Private Equity in Health Care: Reviewing Key Issues that Affect Investment and Structure in Tennessee

This presentation will discuss the recent rise of private equity and related non-physician investment in the Tennessee health care market. We will review the key laws in Tennessee that impact such transactions and provide an outline of leading structures to deal with unique issues under Tennessee law. Finally, we will review practical business concerns and alternatives that should be considered prior to entering into such transactions.

Cory Brown, Aspire Health
Mark Cunningham, Chambliss, Bahner & Stophel
Frank Williamson, Oaklyn Consulting

12:00 p.m. – 12:15 p.m.



Lunch will be provided

Sponsored by Baker Ober Health Law

12:15 p.m. – 1:15 p.m.

HIPAA Update

The panel will cover the following: Practical advice on maintaining HIPAA compliance and addressing data breaches; Update on recent guidance from OCR; Update on recent enforcement actions and settlements and lessons learned; HIPAA-related provisions of the 21st Century Cures Act, including its impact on business associate agreements and sharing of PHI; Update on HIPAA audits and lessons learned; A discussion of other hot topics/areas to focus on for HIPAA compliance.

Stephen Page, Regional Care
Elizabeth Warren, Bass, Berry & Sims PLC

1:15 p.m. – 2:00 p.m.

Cyber Security Issues in Healthcare

Cybersecurity is an issue for every organization as our most valuable assets are stored digitally. However, due to the sensitivity of medical records, healthcare organizations are a primary target for cybercrime. This presentation will discuss common cybersecurity issues and methods to address them.

Bill Dean, LBMC

2:00 p.m. – 2:15 p.m.



Break

Afternoon snack sponsored by Broad and Cassel LLP

2:15 p.m. – 4:15 p.m.

(2.0 DUAL)

Ethics Presentation

An update on what the ethical, practicing health care lawyer should know and should look for in 2017.

Topics will include:

- Lawyers, judges and social media. In the age of Presidential policy made by Tweet, what do you have to be aware of in using social media? We will discuss some eye-opening recent examples of what NOT to do with your tablet, smartphone or computer.
- Is workplace harassment a legal ethics issue? The Tennessee Supreme Court recently received a petition seeking to modify the Rules of Professional Conduct to state that a lawyer or law firm which tolerates harassment or abuse in the workplace is in violation of the rules. Will this far reaching rule be enacted? What are the ramifications for lawyers when it is?
- More News on technology and the ethical lawyer. ABA Formal Opinion 477, issued this May, is the first major update in 18 years of the rules governing a lawyer's transmission of a client's data (including confidences and secrets) via electronic means. Do you know what IoT ("the Internet of Things") is? You should.
- Tennessee update – In March of this year the Tennessee Supreme Court adopted major changes to Rule 8 of the Rules of Professional Conduct, effective immediately. We'll go over those changes and address other current and pending Tennessee ethics news.

Moderator: Sheree Wright, Vanderbilt University

Phil Pomerance, Best Practices Inpatient Care, Ltd.

Nesrin Tift, Bass Berry & Sims PLC

Total Hours for Friday: 5.5 General, 2.0 Dual

Total hours for conference: 12.0 General, 3.0 Dual