

12 CLE CREDITS INCLUDING ETHICS

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# HEALTH LAW INSTITUTE

The event of the year for every health law professional!

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54+ outstanding sessions so you  
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sectors come together

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Continuing Legal Education Arm  
of the Pennsylvania Bar Association

**Philadelphia**

**TUE. & WED., MAR. 15 & 16, 2016**

**PA CONVENTION CENTER, 12TH & ARCH STREETS**

22<sup>ND</sup> ANNUAL

# HEALTH LAW INSTITUTE

*Health law is continually evolving. The Health Law Institute keeps you at the forefront by making sure you know what's new. Public and private health law sectors come together to share invaluable insights. Join us for this rich educational experience—and the opportunity to network and socialize!*

## THE INSTITUTE KICKS OFF WITH THE POPULAR “YEAR IN REVIEW”

You'll stay on top of all of the significant case law developments and regulatory changes in health law in our opening session. In this lively hour you are treated to a tour of all of the new and important case law and regulatory developments as Charles Artz, Barbara Blackmond and Mark Gallant team up. It's the perfect way to “take the temperature” on what is happening across a broad spectrum of health law issues. You'll also be treated to a look ahead at what is on the horizon in health law.

## THE MUCH ANTICIPATED FALSE CLAIMS ACT UPDATE

Courts are continuing to release False Claims Act decisions at a brisk pace. You'll get the “take” on these cases from each of our distinguished panelists who approach the FCA from decidedly different points of view. Our panel includes Margaret Hutchinson, Chief of the Civil Division of the US Attorney's Office, Eastern District of PA; David Laigaie and Eric Sitarchuk. Always a crowd-pleaser!

## SHARE YOUR EXPERIENCES AND IDEAS IN OUR ADVANCED ROUNDTABLES

Been in practice more than 7 years? Want an opportunity to discuss some of the most perplexing health law issues with other experienced health lawyers? Then select one or both of our advanced roundtables. You will be provided with materials in advance of the Institute to review. ***Be sure to pre-enroll! (See page 11.)***

**The Medical Staff Hearing –  
From the Viewpoint of a Hearing Officer**

Tuesday, March 15, 2016, 2:25 – 3:25 pm

**Advanced Roundtable  
for In-House Counsel**

Tuesday, March 15, 2016, 3:35 – 4:35 pm

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*What you learn at the Institute will keep you current with all that's new in health law — and provide you with practice tips you can put into use right away!*

**DR. STEPHEN K. KLASKO, A NATIONAL LEADER IN HEALTHCARE MANAGEMENT,  
ON TRANSFORMING THE DNA OF HEALTH CARE**

Stephen K. Klasko, M.D., M.B.A., is President and CEO of Thomas Jefferson University and Jefferson Health in Philadelphia. A high energy speaker and innovator in health care, Dr. Klasko will address what new technologies, quality initiatives, physician and nurse changes, and hospital culture changes need to occur in order to transform the DNA of health care. Your clients and their legal issues will be impacted by the changes!



**WHAT HAS THE PATIENT GAINED FROM THE AFFORDABLE CARE ACT?**

Join Professor Barry Furrow to examine this critical question. You'll explore the provisions of the Affordable Care Act that have initiated new health system designs. And you'll look at the range of tools that claim to empower patients, including regulatory developments and developing case law, in answering this question of patient safety.



**TAKE AWAY ANSWERS TO YOUR QUESTIONS  
ABOUT REPRESENTING WHISTLEBLOWERS**

Explore the protections that exist for whistleblowers, as well as the dangers. Mark Raspanti will delve into the ethical considerations you have to weigh as a lawyer who is considering engaging in whistleblower representation. Promises to be an eye-opener.



**FEE FOR SERVICE CODES, ARE THEY HERE TO STAY?**

You won't want to miss the dynamic Alice Gosfield as she drills down into fee for service and coordination of care codes. You may be surprised by what potential false claims liabilities lurk in billing codes and how the new codes fit with new payment models. You'll definitely leave this session with cutting edge information!



**JIM SHEEHAN IS BACK WITH A FASCINATING DISCUSSION OF  
DUTY AND DISCRETION AS AN ATTORNEY**

New federal and state laws have provided new incentives and protections for attorneys, but also impose duties to make disclosures to outside authorities for individuals in compliance roles. Join Jim Sheehan to examine both the duty and discretion you have as an attorney in this thought-provoking ethics hour.



Just The Basics	Advanced Roundtable
Ethics	Super Workshop

# TUESDAY, MARCH 15

8:30 - 8:35 Welcoming Remarks

8:35 - 10:05 **The Health Law Year in Review**  
MR. ARTZ, MS. BLACKMOND, MR. GALLANT

10:05 - 10:30 Networking Break

10:30 - 12:00	<p><b>1</b></p> <p><b>False Claims Act Update</b></p> <p><i>Ms. Hutchinson Mr. Laigaie Mr. Sitarchuk</i></p>	<p><b>2</b></p> <p><b>From Patient Safety to Pay-for-Performance: What Has the Patient Gained from the ACA?</b></p> <p><i>Prof. Furrow</i></p>	<p><b>3</b> 10:30 - 11:00</p> <p><b>HIPAA Privacy Basics</b></p> <p><i>Ms. Monson</i></p>
			<p><b>4</b> 11:00 - 11:30</p> <p><b>HIPAA Security Basics</b></p> <p><i>Ms. Monson</i></p>
			<p><b>5</b> 11:30 - 12:00</p> <p><b>The Fundamentals for Designing, Establishing and Maintaining Effective Corporate Compliance Programs</b></p> <p><i>Mr. Miller</i></p>

12:00 - 1:15 Lunch for all attendees

1:15 - 2:15	<p><b>6</b></p> <p><b>The New Databank Guidebook: Issues and Challenges</b></p> <p><i>Ms. Nagele</i></p>	<p><b>7</b></p> <p><b>Social Media and Healthcare: The Recommended Dosage for Employers, Patients Advocates, and Healthcare Professionals</b></p> <p><i>Ms. Snyder, Ms. Stevens Ms. Weinstock</i></p>	<p><b>8</b></p> <p><b>The Current Status of Provider-Based Status</b></p> <p><i>Ms. LaManna, Ms. Raleigh Mr. Thompson</i></p>	<p><b>9</b></p> <p><b>From Volume to Value: The Future of Hospital Reimbursement in the Post-Obamacare World</b></p> <p><i>Mr. Benns, Ms. Calla Ms. Slatt</i></p>	<p><b>10</b></p> <p><b>Technology Competence Is Legal Competence (Ethics)</b></p> <p><i>Mr. Walton</i></p>	<p><b>11</b> 1:15 - 1:45</p> <p><b>Basics of Medicare/Medicaid Fraud &amp; Abuse</b></p> <p><i>Mr. Sokolow</i></p>
						<p><b>12</b> 1:45 - 2:15</p> <p><b>Fraud &amp; Abuse Compliance</b></p> <p><i>Mr. Sokolow</i></p>

2:15 - 2:25 Break

2:25 - 3:25	<p><b>13</b></p> <p><b>Current Issues in Network Management</b></p> <p><i>Ms. Aiken Mr. Rotella</i></p>	<p><b>14</b></p> <p><b>Telehealth Update</b></p> <p><i>Mr. Cassidy</i></p>	<p><b>15</b></p> <p><b>Practical Applications and Analysis of Real World Fraud and Abuse Issues</b></p> <p><i>Mr. Sokolow</i></p>	<p><b>16</b></p> <p><b>Medicaid Mandatory Managed Long-Term Care Services and Supports (MLTCSS) in Pennsylvania</b></p> <p><i>Prof. Campbell Ms. Torregrossa</i></p>	<p><b>17</b></p> <p><b>New Generation Compliance Programs: Effective, Efficient Compliance</b></p> <p><i>Dr. DeWyngaert Mr. Miller</i></p>	<p><b>18</b></p> <p><b>The Medical Staff Hearing – From the Viewpoint of a Hearing Officer</b></p> <p><i>Mr. Bubba, Ms. Gabis</i></p>	<p><b>19</b> 2:25 - 2:55</p> <p><b>A Patient's View of Health Law – Patient Care and Treatment</b></p> <p><i>Ms. Boyan</i></p>
							<p><b>20</b> 2:55 - 3:25</p> <p><b>Basics of Insurance</b></p> <p><i>Mr. Kramer</i></p>

3:25 - 3:35 Break

3:35 - 4:35	<p><b>21</b></p> <p><b>Provider Fraud and False Claims Defense Issues and Compliance Strategy</b></p> <p><i>Mr. Artz, Mr. McCarrie</i></p>	<p><b>22</b></p> <p><b>Cybersecurity and Healthcare – What You Need to Know to Protect Your Organization</b></p> <p><i>Mr. Blaney, Mr. Fliszar</i></p>	<p><b>23</b></p> <p><b>So You Think You Want to Represent a Whistleblower? What Do You Need to Know to Succeed? (Ethics)</b></p> <p><i>Mr. Raspanti</i></p>	<p><b>24</b></p> <p><b>The Corporate Practice of Medicine (CPOM) Doctrine: Alive, Well and Applicable to Your Client!</b></p> <p><i>Mr. Conaboy Mr. Washlick</i></p>	<p><b>25</b></p> <p><b>In-House Counsel Roundtable</b></p> <p><i>Ms. Nelson</i></p>	<p><b>26</b> 3:35 - 4:05</p> <p><b>A Primer on Pennsylvania Licensing Issues Affecting Health Care Professionals</b></p> <p><i>Mr. Dearden</i></p>
						<p><b>27</b> 4:05 - 4:35</p> <p><b>A Primer on Pennsylvania Licensing Issues Related to Health Care Facilities</b></p> <p><i>Ms. Johnson</i></p>

4:35 - 5:35 Cocktail reception sponsored by PBI and the PBA Health Care Law Committee

Keynote Address:

8:30 - 9:30

**Transforming the DNA of Healthcare**

STEPHEN K. KLASKO, M.D., MBA

9:30 - 9:45

Break

9:45 - 10:45	28	Licensure Issues in Acquisition/Merger Transactions <i>Ms. Hepp, Ms. Schreiber</i>	29	<b>Beyond Face Time: The Evolution of Fee for Service Codes</b> <i>Ms. Gosfield</i>	30	Vendor Management, Risk Assessments, and Negligence Lawsuits: Key Areas of Focus That Can Reduce HIPAA Exposure <i>Mr. Bowen, Mr. Rostolsky</i>	31	Patient Safety Organizations: Maximizing Protection in an Era of Increasing Focus on Healthcare Quality and Outcomes <i>Mr. Chulack</i>	32	Research Law and Compliance – 2016 Year in Review <i>Ms. Murtha</i>
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10:45 - 11:00

Break

11:00 - 12:00	33	PA Department of Human Services Update <i>Ms. Grogan, Ms. Leisch</i>	34	Defending Fraud and Abuse Matters <i>Mr. Mulholland</i>	35	<b>Attorneys, Compliance Officers, Safety Officers-Law, Legal Ethics, Retaliation, Recovery: The New Whistleblowers (Ethics)</b> <i>Mr. Sheehan</i>	36	Compliance in Behavioral Health: Therapy for Billing & Payment Disorders <i>Mr. Caponi, Mr. Mattioli</i>	37	Operationalizing the Final 501(r) Regs... Time to Comply! <i>Mr. Hennessey</i>
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12:00 - 1:15

Lunch for all attendees

1:15 - 2:15	38	Healthcare Issues at the PA Insurance Department <i>Mr. Mendelsohn, Mr. Zych</i>	39	A Reimbursement Lawyer's Update for Out of Network Claims <i>Mr. Gallant, Mr. Krauss</i>	40	Health Benefits for Health Care Providers: Important Developments in Employee Health Plans <i>Mr. Calpas, Mr. Leeds</i>	41	The Ever-Expanding Roles of Advanced Practice Nurses, Physicians' Assistants and Others in Hospitals <i>Ms. Blackmond, Mr. Casale</i>	42	Emerging Issues in Accountable Care Organizations Liability <i>Ms. Kumer, Mr. Siedzikowski, Mr. Simon</i>	43	Where's the App for That? Mobile Medical Apps, Cybersecurity and the Regulatory and Litigation Landscape <i>Ms. Klein, Ms. Levine, Mr. Stio</i>
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2:15 - 2:25

Break

2:25 - 3:25	44	PA Department of Health Update <i>Mr. Siget, Ms. Taylor</i>	45	Corporate Board Reporting and Corporate Integrity Agreements <i>Mr. Hoffman</i>	46	Private Health Insurance Companies: Current Strategies to Curtail Fraud, Abuse and Waste <i>Mr. Raphael</i>	47	How the DOL's Proposed Overtime Salary Thresholds Could Impact Health Care Employers <i>Mr. Creasy, Ms. Kirshenbaum</i>	48	The \$10,000 Question: Tackling the Complexities of Value-Based Physicians <i>Dr. Barg, Ms. Kaplan, Ms. O'Rourke</i>	49	Managed Care Update <i>Mr. Casale</i>
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3:25 - 3:35

Break

3:35 - 4:35	50	Divining the Future of Fraud and Abuse Compliance from CMS's Innovation Model Waivers <i>Mr. Ramsey</i>	51	<b>Effective Representation Includes Civility: How to Diagnose and Treat Incivility (Ethics)</b> <i>Ms. Smith, Ms. Triscari, Mr. Wilkinson</i>	52	P3N, HIE, HIO – Acronyms You Should Know <i>Ms. Goss, Mr. Simon, Ms. Thompson</i>	53	ACOs and Clinically Integrated Networks: Building a Platform in a Pay for Value World <i>Mr. Gerber, Mr. Raphaely</i>	54	The Disgruntled Healthcare Employee: Strategies for Preventing Whistleblowers and Mitigating Litigation Risk <i>Mr. Newcomer, Ms. Zaman</i>
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**THANKS to our exceptional Institute planners**

**Edward F. Shay, Esq.**  
POST & SCHELL, P.C., PHILADELPHIA

Mr. Shay practices in the health care field with special emphasis on complex regulatory problems and provider relationships with payors. Much of his practice currently focuses on the critical intersection between e-health, electronic health information management and such rapidly evolving payor relationships as consumer directed health arrangements, performance based compensation and data driven care solutions. Mr. Shay is a past Chair of the Health Information Technology Practice Group of the American Health Lawyers Association. He served as a commissioner of the Electronic Health Network Accreditation Commission (EHNAC) and he currently serves on the Board of Directors of the American Health Lawyers Association. For the past 20 years, he has been named as a health lawyer in Woodward White's *Best Lawyers in America*.

**Ruth M. Siegel, Esq.**  
HERSHEY

Ms. Siegel practices exclusively in the field of health law. Her practice includes representation of institutional and individual health care providers in business and regulatory matters. Ms. Siegel received a B.A. from the University of Pennsylvania, a J.D. from the University of Pittsburgh, and an M.P.H. from The Johns Hopkins University. Before entering private practice, Ms. Siegel served as Chief Counsel for the Pennsylvania Department of Health (1982-1985). A Past President of the Pennsylvania Bar Institute, she has served as course planner, lecturer and author for many PBI health law courses.

8:35 - 10:05 A.M.

THE HEALTH LAW YEAR IN REVIEW

MR. ARTZ, MS. BLACKMOND, MR. GALLANT

Don't miss your chance to catch up on all of the important healthcare developments over the past year. Our dynamic panel will bring you the hottest developments related to physicians, hospitals and Affordable Care Act (ACA) litigation and reimbursement developments (including King v. Burwell, the contraceptive mandate, and the House suit challenging the payment subsidies for out of pocket costs for exchange plans). They will also offer their insights into the trends in health law and what lies ahead in these areas.

10:30 A.M. - 12:00 P.M.

SUPER WORKSHOP

1. FALSE CLAIMS ACT UPDATE

MS. HUTCHINSON, MR. LAIGAIE, MR. SITARCHUK

The number of False Claims Act cases filed and settled continues to rise. Join our distinguished panel as they examine the most notable False Claims Act cases from the past year. The panel will also discuss major issues that have arisen - or that loom on the horizon - involving the FCA. Always a crowd-pleaser!

PROFESSOR FURROW LOOKS AT WHAT THE PATIENT HAS GAINED FROM THE AFFORDABLE CARE ACT



The Affordable Care Act's many provisions have initiated a flood of new initiatives. Professor Barry Furrow will explore the range of tools that claim to empower patients, including regulatory developments and developing case law.

SUPER WORKSHOP

2. FROM PATIENT SAFETY TO PAY-FOR-PERFORMANCE: WHAT HAS THE PATIENT GAINED FROM THE ACA?

PROF. FURROW

The Affordable Care Act appears to be here to stay. Its many provisions have initiated a flood of new initiatives in health system designs, from ACOs to Medical Homes; pay-for-performance is solidifying; patient surveys of quality are emerging; the talk is of consumer sovereignty in health care. Websites offer shopping information for consumers of health insurance, hospitals, nursing homes, and physicians. Quality benchmarks link to payments at the same time as tort reform has been diminished as a quality control tool. We will look critically at the range of tools that claim to empower patients, including regulatory developments and developing case law.

JUST THE BASICS

(10:30 - 11:00)

3. HIPAA PRIVACY BASICS

MS. MONSON

Learn about the HIPAA Privacy Rule in a post-HITECH world. We will explore: • who must comply with HIPAA/HITECH and what information HIPAA/HITECH protects • the obligations of covered entities and business associates on the use and disclosure of protected health information • the rights of individuals and their protected health information.

JUST THE BASICS

(11:00 - 11:30)

4. HIPAA SECURITY BASICS

MS. MONSON

Learn about the HIPAA Security and Breach Notification Rules in a post-HITECH world. We will explore: • the obligations of covered entities and business associates to secure protected health information and electronically protected health information • the requirements of the breach notification rule • enforcement and penalties.

JUST THE BASICS

(11:30 - 12:00)

5. THE FUNDAMENTALS FOR DESIGNING, ESTABLISHING AND MAINTAINING EFFECTIVE CORPORATE COMPLIANCE PROGRAMS

MR. MILLER

Since 1998, the U.S. Department of Health and Human Services, Office of Inspector General has been publishing voluntary compliance program guidance documents. These documents, with the underpinnings of the U.S. Federal Sentencing Guidelines, have led to compliance departments and programs becoming standard across the health care industry. Hear an overview of fundamental requirements and techniques for designing, establishing and maintaining effective compliance programs, with a focus on current issues and challenges, and practical advice for addressing them.

1:15 - 2:15 P.M.

6. THE NEW DATABANK GUIDEBOOK: ISSUES AND CHALLENGES

MS. NAGELE

In May, 2015, the Division of Practitioner Data Banks (DPDB) issued its new Data Bank Guidebook. Here is your opportunity to understand all of the components of the new Guidebook. We will address the nuances of the new reporting system as well as specific areas of concern, such as: • DPDB's expansive interpretation of the term "investigation" for purposes of reporting the surrender of privileges while under investigation • the interpretation of proctoring as a "restriction of privileges" whenever the proctor is required to be scrubbed and in the room for observational purposes • state reporting obligations that include the duty to report actions leading to settlements in which no findings of liability have been made. You will also receive practical advice on how to navigate the NPDB landscape in light of the new guidance.

7. SOCIAL MEDIA AND HEALTHCARE: THE RECOMMENDED DOSAGE FOR EMPLOYERS, PATIENTS ADVOCATES, AND HEALTHCARE PROFESSIONALS

MS. SNYDER, MS. STEVENS, MS. WEINSTOCK

Join us for a lively discussion on the legal and practical implications of social media on healthcare stakeholders. Using case studies, we will discuss: • the healthcare workplace social media considerations and legal protections • utilization of social media in healthcare decision making • social media and healthcare privacy and confidentiality • driving health and public policy through social media.

8. THE CURRENT STATUS OF PROVIDER-BASED STATUS

MS. LAMANNA, MS. RALEIGH, MR. THOMPSON

The Bipartisan Budget Act of 2015 included a provision that altered the future reimbursement of off-campus provider-based departments. What is the impact of the new law on your existing and proposed provider-based departments? What can your hospital do to best preserve its ability to continue receiving provider-based payments under the Outpatient Prospective Payment System (OPPS)? We will also discuss the reimbursement implications of various provider-based scenarios.

9. FROM VOLUME TO VALUE: THE FUTURE OF HOSPITAL REIMBURSEMENT IN THE POST-OBAMACARE WORLD

MR. BENNS, MS. CALLA, MS. SLATT

Hospital payment models have significantly changed. Payment models will increasingly reward high-value care rather than volume based care. Join us to review the driving forces (e.g., federal rules, the Affordable Care Act and state Medicaid rules) behind the shift from volume to value. Additionally, several value based payment models and the challenges for hospitals in this new world of value based payment will be examined.

ETHICS

10. TECHNOLOGY COMPETENCE IS LEGAL COMPETENCE

MR. WALTON

Competence in the digital age requires something new: an understanding by lawyers of developments in technology that affect both lawyers' cases and the manner in which lawyers practice. Incompetence in this regard is not merely a disadvantage that may lose a present-day case, but it is a violation of the Rules. Join us for a discussion of current technology in the practice of law.

JUST THE BASICS

(1:15 - 1:45)

11. BASICS OF MEDICARE/MEDICAID FRAUD & ABUSE

MR. SOKOLOV

Whether you represent physicians, hospitals, other health care providers, third party payors or patients, it is essential that health law professionals have a grasp of the cornerstones of leading fraud and abuse laws such as the Anti-Kickback Statute, the Stark Law and the False Claims Act. Here is your opportunity to explore the broad scope of these laws, recent amendments, and ongoing enforcement efforts designed to protect the public funds that support the Medicare and Medicaid programs.

JUST THE BASICS

(1:45 - 2:15)

12. FRAUD & ABUSE COMPLIANCE

MR. SOKOLOV

It is often said in sports that the best offense is a good defense. By analogy, in the heavily regulated health law field, one of the keys to the successful growth and operation of any health care business is a good corporate compliance program. Attend to learn the importance of health care compliance programs, how to establish them, implement them and determine if they are operating effectively. Their potential impact on Medicare and Medicaid revenues will also be discussed.

2:25 - 3:25 P.M.

13. CURRENT ISSUES IN NETWORK MANAGEMENT

MS. AIKEN, MR. ROTELLA

What co-pays and coinsurance providers must collect from members of out-of-network plans, and what those plans must pay the providers is a developing area of health law that tests the basic principles of network management. Come to understand the state laws dealing with discounts afforded to out-of-network patients. We will also survey the numerous currently pending lawsuits involving this issue and address network contracting and other issues that arise when parties seek to settle these matters.

14. TELEHEALTH UPDATE

MR. CASSIDY

Telehealth is becoming increasingly prevalent both as an alternative delivery form and a wellness concept. Attend to learn about: • new Medicare and Medicaid reimbursement • national litigation trends, including review of the Texas Medical Board litigation against TelaDoc • Pennsylvania legislative proposals - and law if enacted • ongoing national trends regarding credentialing and licensing issues involving telemedicine.



"I took away great practical tips from every session."

## 15. PRACTICAL APPLICATIONS AND ANALYSIS OF REAL WORLD FRAUD AND ABUSE ISSUES

MR. SOKOLOW

Test your fraud and abuse knowledge against other audience members in this fast-paced, interactive session. Using hypotheticals, we will explore the various aspects of fraud and abuse and compliance, ranging from possible Anti-Kickback Statute and Stark Law violations and conduct that is actionable under the False Claims Act, to issues arising in connection with medical billing audits, repayment obligations, charging and balance billing practices, and FMV and commercial reasonableness.

## 16. MEDICAID MANDATORY MANAGED LONG-TERM CARE SERVICES AND SUPPORTS (MLTCSS) IN PENNSYLVANIA

PROF. CAMPBELL, MS. TORREGROSSA

The PA Department of Human Services has announced an aggressive schedule to institute MLTCSS beginning in 2017, which will be operating statewide by 2019. Here is your chance to examine the proposed program and what it means for providers and consumers, including how the new federal requirements will impact the roll out.

## 17. NEW GENERATION COMPLIANCE PROGRAMS: EFFECTIVE, EFFICIENT COMPLIANCE

DR. DEWYNGAERT, MR. MILLER

Join us for this advanced session on how to improve the effectiveness of compliance programs, particularly after repeated compliance failures. Topics include: • root causes of repeated compliance failures in organizations with existing compliance programs • weaknesses and problems caused by continually increasing compliance structures and processes • reinventing compliance programs to gain advantages in effectiveness and efficiency • focusing on simplicity, training, financial incentives, monitoring and accountability • a new vision and mission for compliance programs.

### ADVANCED ROUNDTABLE

## 18. THE MEDICAL STAFF HEARING – FROM THE VIEWPOINT OF A HEARING OFFICER

MR. BUBBA, MS. GABIS

The medical staff hearing process has become much more complex. Many of the procedural and substantive issues in the hearing process are addressed through the use of a hearing officer. Attend to hear real-life issues addressed from the viewpoint of the hearing officer in a point/counter-point format to provide practical guidance to counsel involved in this unique process.

Limited enrollment session – Pre-registration required. See page 11.

### JUST THE BASICS

(2:25 – 2:55)

## 19. A PATIENT'S VIEW OF HEALTH LAW – PATIENT CARE AND TREATMENT

MS. BOYAN

We are at a unique time in health care. Implementation of the Affordable Care Act has expanded access to healthcare for millions of Americans. Health care industries are among the most highly regulated in America. Healthcare providers are exploring options to increase access to healthcare and decrease costs. Technology is rapidly evolving and changing the way we deliver healthcare. All of these things impact the relationship of the provider and the patient. We will examine a variety of patient care and treatment issues, and the regulations governing the physician-patient relationship.

### JUST THE BASICS

(2:55 – 3:25)

## 20. BASICS OF INSURANCE

MR. KRAMER

Attend to explore the ins and outs of insurance policies and coverage determinations. You will gain valuable insight regarding various policy types and the duties of insurers and policyholders under policies.

3:35 – 4:35 P.M.

## 21. PROVIDER FRAUD AND FALSE CLAIMS DEFENSE ISSUES AND COMPLIANCE STRATEGY

MR. ARTZ, MR. MCCARRIE

We will discuss the impact of the following cases and developments: 1) *U.S. v. Natale*, the 7th Circuit decision that acquitted a physician of criminal fraud but convicted him on false records violations. 2) Incident to false claim and fraud decisions. 3) Anti-Kickback/False Claims decisions involving medical director compensation. 4) Group therapy decisions and issues. 5) Co-pay waiver fraud decisions and issues. 6) Legal, compliance and public policy issues following the *Tuomey* 4th Circuit decision.

## 22. CYBERSECURITY AND HEALTHCARE – WHAT YOU NEED TO KNOW TO PROTECT YOUR ORGANIZATION

MR. BLANEY, MR. FLISZAR

Here is your chance to understand cyber risks and exposures, and the legal and regulatory landscape that all companies need to be aware of, with an emphasis on health care entities. Join us to take away best practices, preventative measures, and the necessary response and recovery actions arising out of a data breach. We will discuss HIPAA and the HIPAA Phase II audit program, state breach notification laws, and legal and government enforcement actions a breached entity might face, as well as steps to mitigate losses and transfer risk through insurance.

## FIND OUT WHAT YOU NEED TO KNOW TO REPRESENT A WHISTLEBLOWER



Mark Raspanti will answer your questions about the protections that exist for whistleblowers as well as the dangers. He will examine the ethical considerations of whistleblower representation.

### ETHICS

## 23. SO YOU THINK YOU WANT TO REPRESENT A WHISTLEBLOWER? WHAT DO YOU NEED TO KNOW TO SUCCEED?

MR. RASPANTI

Attend to learn the answers to these questions: • what protections exist for whistleblowers? • what dangers exist for whistleblowers? • what are the ethical concerns surrounding whistleblower representations?

## 24. THE CORPORATE PRACTICE OF MEDICINE (CPOM) DOCTRINE: ALIVE, WELL AND APPLICABLE TO YOUR CLIENT!

MR. CONABOY, MR. WASHLICK

We will explore: • the CPOM doctrine • fee-splitting prohibitions including a brief review of various states' application of the CPOM doctrine • physician practice acquisitions and the CPOM doctrine • "Captive PC" arrangements and tax considerations • planning considerations.

### ADVANCED ROUNDTABLE

## 25. IN-HOUSE COUNSEL

MS. NELSON

Take advantage of this unique opportunity for in-house counsel lawyers in hospitals and other healthcare settings to have collegial interactions and to debate and discuss pertinent legal issues that impact this client setting.

**For experienced hospital and health system in-house counsel only, please.** Limited enrollment session, pre-registration required. See page 11.

### JUST THE BASICS

(3:35 – 4:05)

## 26. A PRIMER ON PENNSYLVANIA LICENSING ISSUES AFFECTING HEALTH CARE PROFESSIONALS

MR. DEARDEN

Examine the handling of investigations initiated by the Bureau of Enforcement and Investigations concerning the potential misconduct of health care professionals; the negotiation of Consent Decrees to resolve violations of the various Practice Acts; the range of sanctions that health care professionals face for violations of the law; and the fundamentals of representing licensees at administrative hearings before a Hearing Officer or a Health Care Board.

### JUST THE BASICS

(4:05 – 4:35)

## 27. A PRIMER ON PENNSYLVANIA LICENSING ISSUES RELATED TO HEALTH CARE FACILITIES

MS. JOHNSON

Attend to understand the who, what and why of licensing in the Commonwealth, including: • who are the relevant licensing agencies • where can the relevant licensure laws and regulations be found • cross-jurisdictional issues and the interplay between federal reimbursement requirements and state licensure requirements.

## YOU'RE INVITED TO THE INSTITUTE RECEPTION!

Come and join your colleagues at the Institute cocktail reception on Tuesday afternoon immediately following the end of the sessions. What a great way to catch up with your colleagues in health law, meet new health law professionals and relax at the end of the day. Courtesy of PBI and the PBA Health Care Law Committee.



"This program is one of PBI's best, probably THE BEST!"

8:30 - 9:30 A.M.

TRANSFORMING THE DNA OF HEALTHCARE

STEPHEN K. KLASKO, M.D., MBA

Have you ever watched an industry transform and say "I wish I had thought of that (think Facebook, Netflix, etc.)" Well, here's your chance...before it happens. Healthcare is about to undergo its largest worldwide metamorphosis in our lifetime. In the past, others have been allowed to make...and profit from...revolutionary changes while doctors, lawyers and other healthcare leaders reacted to those shifts.

As Buckminster Fuller said, "You never transform things by changing the existing reality. To transform something, make a new reality that makes the old way obsolete." Everything it takes to lead that future rather than waiting for "the next big thing" is already here. So what are the new technologies, quality initiatives, physician and nurse changes, and hospital culture changes that need to occur?

Stay tuned as we discuss how the DNA of healthcare can be changed...starting today. As health care changes, so do the laws that govern those in the health care arena.

9:45 - 10:45 A.M.

28. LICENSURE ISSUES IN ACQUISITION/MERGER TRANSACTIONS

MS. HEPP, MS. SCHREIBER

An essential part of an acquisition of a healthcare facility is obtaining the necessary licenses and approvals for post-closing operations. Failure to address licensure issues properly and in a timely manner may result in reimbursement issues, substantial delays in closing the transaction and/or legal penalties. We will address: (i) the types of licenses and/or approvals that are typical in healthcare facility transactions (ii) timing requirements for various approvals and licenses (iii) which party is generally required to obtain the necessary licenses and approvals and (iv) licensing drafting tips and suggestions for the acquisition agreement.

DRILL DOWN INTO MEDICARE PAYMENTS THROUGH ALTERNATIVE PAYMENT MODELS RELYING ON FEE FOR SERVICE



A dynamic speaker, Alice Gosfield, will present an hour packed full of insightful remarks about fee for service and the coordination of care codes. She will address potential false

claims liabilities lurking in billing these codes and explain how the new codes fit with the new payment models.

SUPER WORKSHOP

29. BEYOND FACE TIME: THE EVOLUTION OF FEE FOR SERVICE CODES

MS. GOSFIELD

While CMS has said that 50% of Medicare payments will be made through alternative payment models like bundled payment and ACOs, many of those models rely on fee for service to form the basis for payment with gainsharing after the delivery. Fee for service is not going away, contrary to popular myth. Come to: • review the history of the premises of Medicare fee for service • consider the extent to which the fee schedule has provided for coordination of care codes in the past • elucidate the coordination of care codes including care plan oversight, transitional care, chronic care management and oncology care management • address potential false claims liabilities lurking in billing these codes • explain how the new codes fit with the new payment models.

30. VENDOR MANAGEMENT, RISK ASSESSMENTS, AND NEGLIGENCE LAWSUITS: KEY AREAS OF FOCUS THAT CAN REDUCE HIPAA EXPOSURE

MR. BOWEN, MR. ROSTOLSKY

Here is your chance to take away key threshold compliance considerations for covered entities and business associates that can effectively minimize HIPAA exposure and provide a high degree of prospective comfort that PHI will remain safe and secure. In addition to dissecting the recent trend of lawsuits that circumvent the lack of a private right of action within HIPAA, we will discuss technology driven solutions designed to bolster any HIPAA compliance program. Finally, we will address the inherent compliance and security challenges associated with utilizing vendors and subcontractors.

31. PATIENT SAFETY ORGANIZATIONS: MAXIMIZING PROTECTION IN AN ERA OF INCREASING FOCUS ON HEALTHCARE QUALITY AND OUTCOMES

MR. CHULACK

The federal Patient Safety and Quality Improvement Act ("Patient Safety Act") has given rise to a number of Patient Safety Organizations ("PSOs") which provide a unique opportunity for providers to enhance the quality of care while taking advantage of a federal privilege stronger than most state peer review privileges. Recent case law on the topic has resulted in inconsistent rulings on the protections available and has providers scrambling to make sense of the law. We will explore the Patient Safety Act and the case law involving PSOs and the Patient Safety Act. Client experiences with PSOs and a roadmap for setting up PSOs will also be shared.

32. RESEARCH LAW AND COMPLIANCE - 2016 YEAR IN REVIEW

MS. MURTHA

We will examine the recent OIG initiatives arising out of the 2016 OIG Work Plan and other enforcement activity. The recent ANPRMs and new laws and regulations that affect the conduct of research in the US as well as Pennsylvania state laws and regulations that govern these issues will be covered. You will leave with an understanding of the recent enforcement activity from NIH, the FDA, CMS and the OIG related to research in the US.

11:00 A.M. - 12:00 P.M.

33. PA DEPARTMENT OF HUMAN SERVICES UPDATE

MS. GROGAN, MS. LEISCH

The Chief Counsel and Deputy Chief Counsel of the Pennsylvania Department of Human Services will fill you in on the most important statutory, legal and operational developments affecting the Department and those who seek services from, or provide services to, the agency. We will provide specific updates of cases and other activities during 2015 and what the Department expects to see happening in 2016.

34. DEFENDING FRAUD AND ABUSE MATTERS

MR. MULHOLLAND

Take away practical tips on how to deal with fraud and abuse investigations, False Claims Act suits and actions affecting health care clients. Strategies and tactics for dealing with administrative investigations, self-disclosures and qui tam actions will be discussed. Forms will be provided that offer procedures for dealing with investigations and responding to subpoenas, document retention memos, "corporate Miranda warnings," notices to employees being interviewed and joint defense agreements.

AN INSTITUTE FAVORITE - JAMES SHEEHAN WILL BE BACK!



New federal and state laws give new incentives and protections and impose duties to make disclosures to outside authorities for individuals in compliance roles. Jim Sheehan will examine both duty and discretion for attorneys.

ETHICS

35. ATTORNEYS, COMPLIANCE OFFICERS, SAFETY OFFICERS-LAW, LEGAL ETHICS, RETALIATION, RECOVERY: THE NEW WHISTLEBLOWERS

MR. SHEEHAN

New federal and state laws give new incentives and protections and impose duties to make disclosures to outside authorities for individuals in compliance roles. These new laws coexist uneasily with state bar rules governing disclosure to outside persons. In Redacted vs. Redacted, the Pennsylvania Supreme Court has agreed to consider the reporting question in the context of charities: When counsel for a nonprofit corporation believes that charitable assets are being unlawfully diverted, may counsel disclose this information to the Attorney General's office, as parens patriae for the public to whom the charity and its counsel owe a fiduciary duty? Come to hear an interesting discussion on both duty and discretion.

36. COMPLIANCE IN BEHAVIORAL HEALTH: THERAPY FOR BILLING & PAYMENT DISORDERS

MR. CAPONI, MR. MATTIOLI

We will explore the unique compliance issues that emerge related to billings and payment issues in the behavioral health setting. Specific issues include: • relationship of state law to behavioral health providers, including regulations that impact billing for services • unique aspects of medical necessity regarding behavioral health • strategies for defending behavioral health providers in payment disputes • role of physician extenders in mental health • unique privacy issues regarding behavioral health providers.

37. OPERATIONALIZING THE FINAL 501(R) REGS...TIME TO COMPLY!

MR. HENNESSEY

Attend to hear about salient federal income tax issues affecting tax-exempt Section 501(c)(3) healthcare organizations. We will take an in-depth look at the final Section 501(r) regulations, which have recently been issued and which will be effective as of the 2016 tax year. Other topics may include expansion/revision of IRS Form 990, recent tax cases/rulings, tax-exempt bond guidance, tax issues related to new reimbursement/care models (e.g., ACOs, etc.), new IRS guidance/procedures affecting healthcare organizations and the impact of healthcare reform.

1:15 - 2:15 P.M.

38. HEALTHCARE ISSUES AT THE PA INSURANCE DEPARTMENT

MR. MENDELSON, MR. ZYCH

Here is your opportunity to hear what is happening at the PA Insurance Department. The Chief Counsel and Executive Deputy Insurance Commissioner will fill you in on all of the significant developments affecting the Department.



"It is such a comprehensive program with a LOT of information!" "I love that there are so many sessions on current and developing topics."

## 39. A REIMBURSEMENT LAWYER'S UPDATE FOR OUT OF NETWORK CLAIMS

MR. GALLANT, MR. KRAUSS

Come to hear a lively discussion on: • use of ERISA for pursuing claims by in and out of network providers • pursuit of payment through patient assignments • Third Circuit developments for assignment of rights and claims under ERISA and beyond • claims and issues arising out of patient fee forgiveness • claims based on implied contract and negligent misrepresentation.

## 40. HEALTH BENEFITS FOR HEALTH CARE PROVIDERS: IMPORTANT DEVELOPMENTS IN EMPLOYEE HEALTH PLANS

MR. CALPAS, MR. LEEDS

There have been dramatic developments affecting the health benefits that hospitals and other health care providers offer employees, including highly publicized Supreme Court decisions on the Affordable Care Act and same-sex marriage and the EEOC's long-awaited proposal of regulations governing wellness programs. These changes occur as employers face new compliance requirements under the Affordable Care Act: this year with the employer mandate, next year with additional reporting requirements, and in 2018 with the Cadillac Tax. Recent developments affecting health benefit plans and their practical implications will be addressed.

## 41. THE EVER-EXPANDING ROLES OF ADVANCED PRACTICE NURSES, PHYSICIANS' ASSISTANTS AND OTHERS IN HOSPITALS

MS. BLACKMOND, MR. CASALE

CMS Conditions of Participation for hospitals now encourage a greater role for non-physicians in hospitals, and in medical staff activities. In many states, advanced practice nurses are now eligible to be members of the medical staff. In about half of the states, APRNs may now practice without physician collaboration. Doctors of Nursing Practice are now seeking to provide care in hospitals. How can medical staffs develop criteria for privileges for specialty practice for generally-trained PAs? There are few post-graduate specialty training programs for PAs. Is "on-the-job" training acceptable? How do you peer review? What supervision is required by physicians? What are the billing implications? What regulatory and accreditation standards apply?

## 42. EMERGING ISSUES IN ACCOUNTABLE CARE ORGANIZATIONS LIABILITY

MS. KUMER, MR. SIEDZIKOWSKI, MR. SIMON

As Accountable Care Organizations (ACOs) are formed and matured, the courts will address new issues in ACO liability. For example, since ACOs must implement, monitor and enforce patient care standards, will this change the medical malpractice landscape? Do the ACOs' standards become the standard of care for measuring medical negligence? Is information on physician performance peer review protected? What is the potential liability of the ACOs and their Board members for cost containment measures that arguably give rise to alleged medical malpractice? What are physician rights if they allegedly do not meet the standards and are removed from an ACO? What rights do government and private payers have against ACOs? Will the required sharing of information increase the ACOs' cyber risk?

## 43. WHERE'S THE APP FOR THAT? MOBILE MEDICAL APPS, CYBERSECURITY AND THE REGULATORY AND LITIGATION LANDSCAPE

MS. KLEIN, MS. LEVINE, MR. STIO

Mobile devices and the health/medical applications on those devices are changing the way healthcare information is used, collected, stored and shared. We will tackle head on, the increased risks associated with the use of mobile applications in the healthcare industry and the regulatory scheme governing mobile apps including: • who may use the application? • what information is being collected? • how is information being stored and shared? On the litigation side, we will look at enforcement actions arising from the use of mobile apps that have been brought by the FTC, including the recent enforcement action against PaymentsMD, LLC, and offer an update on cybersecurity and privacy litigation hitting the healthcare industry.

2:25 - 3:25 P.M.

## 44. PA DEPARTMENT OF HEALTH UPDATE

MR. SIGET, MS. TAYLOR

Join us to explore the issues that were addressed by the Department of Health during the past year and that are expected to remain of prime importance in 2016. Join us to learn about the implementation of any recently enacted legislation and any forthcoming promulgation of new and revised regulations.

## 45. CORPORATE BOARD REPORTING AND CORPORATE INTEGRITY AGREEMENTS

MR. HOFFMAN

Come to hear how the DOJ and OIG are emphasizing the need for Boards to be fully engaged in their oversight responsibility and to provide guidance on determining the adequacy and effectiveness of the organization's compliance program.

## 46. PRIVATE HEALTH INSURANCE COMPANIES: CURRENT STRATEGIES TO CURTAIL FRAUD, ABUSE AND WASTE

MR. RAPHAEL

Hear a discussion about private health insurance companies' current strategies concerning Fraud and Abuse, including increasingly sophisticated data mining analysis, pre-payment review procedures, overpayment demands and a growing trend toward litigation to recover improperly paid monies.

## 47. HOW THE DOL'S PROPOSED OVERTIME SALARY THRESHOLDS COULD IMPACT HEALTH CARE EMPLOYERS

MR. CREASY, MS. KIRSHENBAUM

The U.S. Department of Labor issued a Notice of Proposed Rulemaking that contains a proposed new minimum salary threshold for the "white-collar" exemptions from the overtime requirements of the Fair Labor Standards Act. We will analyze the wide-ranging impact on health care workers and their employers, including the proposed regulatory changes themselves and the types of health care workers most likely to be impacted, should the proposed changes be retained in the Final Rule.

## 48. THE \$10,000 QUESTION: TACKLING THE COMPLEXITIES OF VALUE-BASED PHYSICIANS

DR. BARG, MS. KAPLAN, MS. O'ROURKE

New revenue models for health systems call for new compensation models for physicians – models that provide incentives for quality as well as productivity. We will discuss the design of value-based compensation models to minimize the pain of potential risks (e.g., disgruntled physicians, impact on physicians who "take a hit," lower productivity, and high compensation levels) while maximizing results. We will discuss the practical, regulatory and fair market value considerations related to value based physician compensation including: 1) How much of an incentive is enough? 2) How should quality and cost-effectiveness be measured? 3) What are the challenges in evaluating FMV in a new value based world? 4) What are the legal considerations of changing compensation plans? 5) What are the legal considerations of paying for quality outside of employment?

## 49. MANAGED CARE UPDATE

MR. CASALE

Discover the recent developments, the Pennsylvania state court decisions and the Pennsylvania Federal District Courts, Third Circuit Court of Appeals and United States Supreme Court decisions that involved a Managed Care Organization (MCO) decided during 2015. We will also discuss Federal Trade Commission actions that were taken, and OIG opinions published during 2015 that involved an MCO regardless of the location of the MCO.

3:35 - 4:35 P.M.

## 50. DIVINING THE FUTURE OF FRAUD AND ABUSE COMPLIANCE FROM CMS'S INNOVATION MODEL WAIVERS

MR. RAMSEY

The health care system is rapidly evolving to one in which providers will be accountable for the quality and cost of the care provided. Bundled payments, population health management and episodic care coordination will soon replace current models of payment and delivery. However, operating in this new environment will still require compliance with the Anti-Kickback Statute, the Stark Law, the CMP law and a myriad of other regulatory restrictions. Take this opportunity to explore the future through the prism of the "waivers" issued by CMS in connection with its various innovation center projects including the Bundled Payment Care Initiative (BPCI), the Comprehensive ESRD Care Initiative (ESCO), and the Medicare Shared Savings Program.

### ETHICS

## 51. EFFECTIVE REPRESENTATION INCLUDES CIVILITY: HOW TO DIAGNOSE AND TREAT INCIVILITY

MS. SMITH, MS. TRISCARI, MR. WILKINSON

The PBA Bar Leadership Institute will share the results of its recent survey on civility. We will explore the survey respondents' practical solutions on how to avoid responding "in kind." You will learn why civility and professionalism is integral to the successful practice of law, and who should be responsible for correcting uncivil and unprofessional behaviors.

## 52. P3N, HIE, HIO – ACRONYMS YOU SHOULD KNOW

MS. GOSS, MR. SIMON, MS. THOMPSON

Join us for a discussion on: • Act 121 of 2012 – statutory authority and governance of eHIE in the Commonwealth • the PA Patient and Provider Network = "P3N": where we are today with the implementation of the state-wide electronic health information highway • privacy issues: the applicable PA and state privacy laws, super protected data, and consent management – the opt-out/opt-back-in process • cyber-security protections, including the version 3 contractual certification requirements applicable to those connecting to P3N • the public health gateway: operational in 2015 – what it is and what it does to advance information reporting to Commonwealth agencies • eHIE challenges: "data hoarding" and other barriers to achieving the quality and efficiency benefits of eHIE • emerging liability concerns: what if a provider or payer does not access eHIE and misses information necessary for appropriate patient care? What if a provider or payer does not make information available through eHIE and a provider cannot access information necessary for appropriate patient care?

## 53. ACOS AND CLINICALLY INTEGRATED NETWORKS: BUILDING A PLATFORM IN A PAY FOR VALUE WORLD

MR. GERBER, MR. RAPHAEL

We will discuss the issues and provide practical tips that lawyers need to know in order to help ACOs and Clinically Integrated Networks succeed. Hear detailed information on the operational issues faced by these organizations such as barriers to care coordination, quality reporting, provider engagement, and participation in multiple payment models that create budgeting and financial planning challenges.

## 54. THE DISGRUNTLED HEALTHCARE EMPLOYEE: STRATEGIES FOR PREVENTING WHISTLEBLOWERS AND MITIGATING LITIGATION RISK

MR. NEWCOMER, MS. ZAMAN

Attend to learn about the various state and federal whistleblower laws under which an employee can take action against his or her healthcare employer, as well as the potential penalties under these laws. We will discuss real-world strategies for preventing employees from becoming whistleblowers, and for handling the difficult situations that arise when a current employee is a known or suspected whistleblower.

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