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LEGAL TOPICS IN HEALTHCARE



Colin J. Zick, Co-chair of **Foley Hoag's Health Care Practice Group**, was asked why internal publications from a health system's office of the general counsel can be so important to compliance efforts. He said, "We are experiencing the most rapid change in healthcare regulations, their interpretation and their enforcement in US history. We are getting more inquiries on these subjects at our firm than ever before. Any reliable information that can get the attention of employees and help educate and inform them, so that they do the right, legally correct thing is a positive step."

The subject matter of the internal communication *AMS Legal Topics in Healthcare* included current events such as how HIPAA applied to Hurricane Harvey, the Las Vegas Massacre and the Opioid Crisis with a wide range of other regulatory topics such as Anti Kick Back, Sarbanes Oxley and Dodd Frank.

This weekly *Legal Topics in Healthcare* has generated many thought provoking inquiries from the consultants about the work they are engaged with, and has raised their awareness of the legal pitfalls that exist in just about every aspect of healthcare. It is important that staff recognize compliance risks and ensure that they are factored into their client recommendations whenever pertinent.

Now, for the first time, this will be available to our readers. *AMS Legal Topics in Healthcare* is published by the AMS Office of General Counsel led by Lynn Mancini, Esquire, General Counsel and Vice President. Jeanne Beando, JD, RHIA, Vice President, also contributes. Attached to the Biweekly is a list of those topics. If you would like more information, please contact Lynn Mancini at lmancini@aboutams.com.

NURSING STAFFING SHORTAGE



AMS produces a **Top Ten Trends** list of where you should invest your healthcare dollars. In 2010 number 7 on the Top Ten list was "Nurse Staffing" and number 8 was "Healthcare Professional Shortage". For 2020 (which was predicted back in 2015) these trends were combined and moved up as #2 on the list as "Healthcare Professional Staffing Shortage". Therefore, it was no surprise to see the CNN Money report written by Parija Kavilanz posted March 8, 2018 titled "Hospitals offer big bonuses, free housing and tuition to recruit nurses" raising public awareness of the real and present challenge many organizations are experiencing amidst what is described as a "massive" nursing shortage. Especially over the past



year, AMS clients are reporting their experience and concerns stemming from this shortage. Reported high RN vacancy rates fueled by high RN turnover are the consistent concerns reported by organizations ranging from large academic medical centers to critical access hospitals.

AMS clients are seeing a rise in turnover of new graduate RNs; many CNOs are reporting that new graduates are taking jobs to get foundational experience then moving on to pursue their ultimate personal and professional goals.



Nursing Solutions, Inc. (NSI) published the “2017 National Health Care Retention & RN Staffing Report” indicating the national RN turnover of bedside RNs in 2016 was 14.6% with an RN recruitment index of 86 days. The NSI reports that although most hospitals recognize the need for retention strategies, only 43.4% have a formal program, suggesting more than half of hospitals are in a more reactive state of recruitment.

Examples of more extreme measures by some organizations to attract qualified talent that were highlighted in the CNN Money article include:

- UC Health with 330 RN vacancies across nine hospitals located in Colorado, Wyoming, and Nebraska is offering a \$10,000 sign on bonus and \$4,000/year for continuing education.
- Inova Health System, near Washington DC, is offering a \$20,000 sign on bonus and up to \$20,000 in relocation expenses for nurses with at least two years of critical care experience living more than 50 miles away from one of its six hospitals.
- For employees who have been working at West Virginia WVU for five or more years, the organization is offering tuition reimbursement to them and their children. Children who attend West Virginia University will have full tuition coverage. A free commuter housing program is in place to help fill the 200 RN vacancies across its eight hospitals.

In conducting an operational diagnostic for nursing, the prime focus is the ability to respond and flex staffing to the changing acuity of patients and manage that dynamic. AMS applies current research and evidence of best practices along with our proprietary benchmarking methodology to offer staffing and operational recommendations that support a healthy work environment with consideration of the unique characteristics of each organization. For more information contact Jennifer Schuster, principal, at jschuster@aboutams.com or Donna Watson Dillon, principal, at dwdillon@aboutams.com.





AMS LEGAL TOPICS IN HEALTHCARE

Topic/Date	Date
Anti-Kickback Statute – Safe Harbors	1/30/2017
Physician Self-Referral Law (Stark Law)	5/2/2017
Anti-Kickback Statute (AKS) and Advisory Opinion	5/9/2017
Federal False Claims Act (FCA) - Civil Liability	5/16/2017
Criminal Health Care Fraud Statute	5/23/2017
Provider Based Billing	6/6/2017
Distinguishing between the Living Will and Healthcare Proxy	6/13/2017
Who/What is the Office of Inspector General (OIG)	6/20/2017
Health Care Fraud Prevention and Enforcement Action Team (HEAT)	6/27/2017
General Services Administration (GSA)	7/11/2017
appealing an adverse payment determination to a payer, and payer-specific rules	7/18/2017
Federal Government Contractors who support efforts to detect fraud, waste and abuse	7/25/2017
Inspector General (OIG) issues its Workplan	8/1/2017
OCR Quick Response Cyber Attack Checklist and Graphic	8/8/2017
Ohio Based Companies to Pay \$19.5 Million to Settle FCA Allegations	8/22/2017
Beneficiary Inducement Civil Monetary Penalties Provisions(CMP)	8/29/2017
Hurricane Harvey and HIPAA	9/5/2017
National Instant Criminal Background Check System (NICS) and the HIPAA Privacy Rule	9/12/2017
When undergoing a False Claims Act (FCA), HIPAA Investigation or the like, what is “Cooperation Credit”?	9/19/2017
Yates Memo	9/26/2017
Las Vegas Massacre	10/3/2017
Office of Civil Rights (OCR) HIPAA Privacy and Security Desk Audits	10/24/2017
More on the HIPAA front – Privacy and the Opioid Crisis	10/31/2017
Law Enforcement is here and demanding lab records-release?	12/5/2017
HIPAA versus Family Education Rights and Privacy Act (FERPA)	12/19/2017
Stored Communications Act (18 U.S.C. Chapter 121, Section 2701-2712)	1/16/2018
How does the Sarbanes-Oxley Act of 2002 (Public Law 107-204) impact Healthcare?	1/25/2018
Anti-Kickback Statute – Safe Harbors	1/30/2017
Will the Dodd-Frank Act impact Healthcare?	2/6/2018
Does the Federal Information Security Management Act of 2002 (FISMA) impact HIPAA?	2/14/2018
How does the Gramm Leach Bliley Act of 1999 (Pub. L 106-102, 113Stat.1338) impact healthcare?	2/21/2018
Does the Payment Card Industry Data Security Standard (PCI-DSS) impact Healthcare?	2/27/2018

For more information, please contact Linda (Lynn) Mancini, General Counsel and Vice President, at Lmancini@aboutams.com.



ACHE of Massachusetts Spring Conference 2018

The New Healthcare Paradigm and Organizations That Are Shaping It

Friday, May 4, 2018

7:30 AM – Noon PM

DoubleTree by Hilton | 5400 Computer Drive, Westborough, MA

(Continental breakfast and lunch included.)

A 6% increase per year in US health care costs over the next decade is projected, bringing health care's share of our GNP from 19% to 25% - when for the rest of the industrialized world it is only 6-10%. And, despite this massive spend, US still ranks as the unhealthiest nation in the industrialized world.

Congress plans to take up "Entitlements Reform" next - threatening massive cuts to Medicare and Medicaid just as 80 million Baby Boomers enter their 70's and 80's - the peak years for health care needs.

Something has got to give! The whole health care industry - big pharma, medical device manufacturers, providers, and insurance companies - will need to make radical changes.

Enter disruptive innovators: Big Data and new payment models that demand control of total medical expense while providing higher quality and greater access. Increasing volume, visits and procedures to generate revenue will not work. The future must focus on the real determinates of health: Behavior, Engagement and Environment.

ACHE of MA's Spring Conference will focus on organizations and individuals that are successfully implementing changes and creating *The Future of Health Care in America*. Pay attention to this paradigm shift - or risk becoming the next incandescent light bulb!

KEYNOTE SPEAKERS

Troyen Brennan, MD, Executive Vice President and Chief Medical Officer, CVS Health



Patrick Gilligan, Executive Vice President of Sales, Marketing & Product, Blue Cross Blue Shield of Massachusetts



PANEL DISCUSSION

Alastair Bell, MD, Executive Vice President, Strategy and COO, Boston Medical Center

Jan Bruce, Founder & CEO, meQuilibrium

John Moore, Co-Founder & CEO, Twine Health

Marc-David Munk, MD, FACHE, Chief Medical Officer, Iora Health

David Seltz, Executive Director, Massachusetts Health Policy Commission

Moderator: **Peter Shorett**, Senior Partner, The Chartis Group



AGENDA

7:30 - 8:00 AM Registration, Breakfast and Networking

8:00 - 8:15 AM Opening Remarks & Kinzer Awards - Andrea Paciello, FACHE, ACHE of MA President, Executive Director, Teaching & Education, Massachusetts General Hospital

8:15 - 9:00 AM Troyen Brennan, MD

9:00 - 9:45: Patrick Gilligan

9:45 - 10:15 AM Networking Break - Visit Our Sponsor Tables

10:15 - Noon AM Panel Discussion

Noon - Closing Remarks & Optional Lunch

Investment

\$199 ACHE of Massachusetts/ACHE Members

\$299 Non-members (Join ACHE to receive the Member Rate <http://ache.org/Membership/>)

*\$35 Healthcare Administration Students and those "In Transition"

*Students must be in a full-time Healthcare Administration Master's Program.

- The American College of Healthcare Executives has awarded 1.5 ACHE Face-to-Face Education Credits to this program.
- 1.5 ACHE Qualified Education credits have been approved for the Keynote portion of this program.

REGISTER NOW: http://massache.org/event_2018_05_04.asp