

HEALTH CARE

Vorys health care attorneys are trusted and experienced professionals who counsel clients on all legal, regulatory, and business issues facing the health care industry. Whether the matter involves the day-to-day operations of a health system or issues associated with regulatory compliance, complex litigation, corporate compliance, fraud and abuse, or payor reimbursement arrangements, our attorneys are fully equipped to respond to client needs. Our experience is broad and deep. We take pride not only in our industry experience (including multiple attorneys with prior in-house experience and a registered nurse), but also in our ability to coordinate with other practice areas within our firm. Our attorneys understand the complex and changing landscape of health care and the need to provide our clients with timely, practical, and cost-effective solutions.

Reimbursement Counseling and Payor Compliance

We routinely advise clients on issues related to their public and private payor relationships, including enrollment, billing, coding, coverage and reimbursement for providers across the industry, with particular expertise involving health systems, hospitals and physicians; payor contracting and participation, including Medicare and Medicaid, as well as private payor relationships (including network participation and managed care contracting); Medicare Advantage requirements; rate setting, cost reporting and reconciliation; operation of provider-based entities; compliance issues (such as the identification and disclosure of overpayments, upcoding, unbundling and other compliance problems, as well as medical records documentation requirements and non-physician practitioner supervision and collaboration), and payor audits and government investigations. We are experienced in representing clients before CMS, state Medicaid agencies, Medicare contractors, the State Medical Board of Ohio, the DOJ, OIG, and DEA, and various other federal and state regulators.

Fraud and Abuse Compliance

We work to structure business relationships and related transactions to minimize fraud and abuse implications, while also achieving our health care clients' desired business goals. We regularly evaluate transactions, contracts, and other arrangements for compliance with federal and state fraud and abuse laws, such as the Anti-Kickback Statute and the Stark Physician Self-Referral Law. Our vast experience in this area complements our role as transactional counsel to clients on hospital/physician joint ventures, including the operation of diagnostic imaging facilities, equipment lease arrangements, physician practice acquisitions, and physician recruitment programs. We know the ins and outs of health care deals, and we steer our clients away from the pitfalls that trap the uninformed.

Audits and Investigations

Our team has handled hundreds of audits and investigations involving CMS, state Medicaid agencies, and Medicare contractors, and we frequently assist clients with internal and external investigations and audits, including the evaluation and negotiation of potential disclosure obligations and settlements, and provide ongoing consultation regarding compliance with corporate integrity agreements. Through on-site reviews and evaluations of clinical documentation, provider qualifications, and contracts and business relationships between referral sources, we identify and analyze potential compliance concerns and assist our clients in developing robust, practical compliance programs and policies.

to prevent illegal activity and to recognize and address compliance issues as they arise, minimizing client exposure to prosecutions and penalties.

Health Care Transactions

Our regulatory and compliance experience complements our role as counsel to clients in all transactional matters, including hospital/physician joint ventures; creation and operation of diagnostic testing facilities; equipment and space lease arrangements; hospital and physician practice acquisitions; personal services and physician employment agreements; and physician recruitment programs. We understand the complexities of hospital-based and freestanding arrangements, and we counsel clients on ownership/investment issues, structural and operational considerations, and reimbursement concerns to ensure compliance with the array of regulatory issues impacting health care transactions.

We regularly evaluate proposed transactions of all shapes and sizes. We are acutely aware of the importance of fraud and abuse compliance issues presented in virtually all transactions involving our health care clients and approach each issue with a practical, skilled eye towards assisting our clients in achieving their objectives within the bounds of the law. In doing so, we analyze their compliance with the federal and state fraud and abuse laws and provide guidance on how to properly structure (or amend, as needed) each arrangement to comply with applicable authorities. We also have experience analyzing other relevant state laws, including corporate practice of medicine and fee splitting laws.

Data Privacy & Security/Health Information Technology

Health information privacy and security compliance influences key business decisions about patient care, quality improvement and information technology. Our health care attorneys are experienced with respect to innovative health information exchanges, electronic and personal health records, paper and electronic data privacy and security, health information management, and federal and state discovery rules for electronically stored information. Our lawyers routinely counsel health care providers on preemption issues, including the use and disclosure of health information, state breach laws, and the production of health information in response to discovery requests, court orders, law enforcement investigations, and otherwise to health care regulators.

We regularly counsel clients on HIPAA compliance, including preparation of required policies and procedures, conducting related training, compliance with breach requirements, and analysis of liability for covered entities, business associates and private vendors of electronic health records. Our attorneys have handled hundreds of data breaches. We also counsel clients on issues related to meaningful use incentive programs, incentive payments, recoupments and appeals.

Our experience in the area of state public records laws provides added value to our clients' who are under investigation, negotiating corrective action plans, or are involved in revocation proceedings against state or federal agencies, including OCR, the FTC, and various states' attorneys general. Multiple Vorys attorneys hold privacy certifications, including certification as a Certified Information Privacy Professional (CIPP-US).

In addition, as health care has become increasingly a technological business, our attorneys have advised providers and third-party service vendors concerning information systems privacy and the interplay between technology and corporate compliance. We have significant experience negotiating various software and technology agreements related to emerging health care technologies, as well as advising on best practices from a data privacy and security management perspective.

New Health Care Delivery Models

Vorys attorneys have experience advising clients on new health care delivery models, including creation of retail health care clinics and employer health clinics, along with provider-payor partnerships and employer-provider partnerships designed to improve health outcomes and reduce health care costs.

We also advise clients on issues related to use of telemedicine and other health information technologies to deliver care. Representative engagements include: representing a large telemedicine provider in the use of telemedicine to provide primary and specialty care; advising an insurer on the use of consumer health devices in behavioral and health modification initiatives; counseling employers on the use of health and wellness applications to improve health outcomes and increase overall participant health and well-being.

Vorys also has extensive experience on issues related to employer sponsored health plans and wellness programs. Representative engagements include: representing providers in negotiating direct provider agreements with employer plans; creating employer-provider partnerships based on quality outcomes; representing employers in creation of on-site employer medical clinics, including corporate practice of medicine issues and physician-friendly delivery models; and integrating care coordination and quality initiatives into plan design (including quality-based payment).

Access to Key Government Agency Contacts

We have strong relationships with many key government contacts impacting the health care industry and our health care clients. Many other leaders in state government are either former colleagues of ours or are former clients of the firm. As a result of these long-standing relationships, we are able to provide formal and informal access to various regulators in order to assist in solving challenges faced by our clients. Additionally, as multiple of our health care attorneys and colleagues are former state regulators themselves, we understand how to strategically present issues to regulators in a way that is respectful of their position while also directly advocating for our client's position.