

ABA Health Law Section  
7th Annual Conference on

# Emerging Issues in Healthcare Law 2006



Photo courtesy Metropolitan Tucson Convention & Visitors Bureau

February 22 - 24, 2006

Hilton Tucson El Conquistador

Tucson, Arizona



HEALTH LAW  
American Bar Association



## 7th Annual Conference on

# Emerging Issues in Healthcare Law 2006

## Schedule-at-a-Glance

### Wednesday, February 22, 2006

- 12:00 pm – 4:00 pm  
Early Registration
- 1:00 pm – 4:00 pm  
Fundamentals for Health Lawyers
- 1:00 pm – 4:00 pm  
Industry Perspectives on Healthcare
- 6:00 pm – 7:30 pm  
Reception Honoring Young Lawyers  
*(All registrants are welcome to attend.)*

### Thursday, February 23, 2006

- 7:00 am – 5:00 pm  
Registration & Information Desk Open
- 7:30 am – 10:00 am  
Continental Breakfast
- 8:00 am – 9:30 am

#### Plenary Session

- Hurricane Katrina: Legal Responses and Lessons Learned
- 9:30 am – 9:45 am  
Break
- 9:45 am – 11:00 am  
**Concurrent CLE Sessions**
  - What You and Your Clients Need to Know about Electronic Medical Records and the National Health Information Network
  - Fraud and Abuse Risks in Real Estate Transactions
  - Disclosure of Adverse Events and Medical Errors
- 11:00 am – 11:15 am  
Break
- 11:15 am – 12:45 pm

#### Plenary Session

- Update on Executive Compensation, New Code Section 409A, and Other IRS Initiatives
- 12:45 pm – 1:00 pm  
Break
- 1:00 pm – 2:30 pm  
**Interest Group Lunches**
  - eHealth Privacy & Security
  - Healthcare Fraud & Compliance
  - Healthcare Litigation & Risk Management
  - Medical Research, Biotechnology & Clinical Ethical Issues
  - Transactional & Business Healthcare

- 2:30 pm – 2:45 pm  
Break
- 2:45 pm – 4:15 pm  
**Plenary Session**  
New Frontiers in Provider Compensation
- 4:15 pm – 4:30 pm  
Break
- 4:30 pm – 5:45 pm  
**Concurrent CLE Sessions**
  - Mission Impossible? The Challenges of Structuring Compliant Ancillary Service Arrangements
  - Claims Processing under the New World Order
  - Hidden Traps in Clinical Trials
- 6:00 pm – 8:00 pm  
Welcome Reception

### Friday, February 24, 2006

- 7:30 am – 4:00 pm  
Registration & Information Desk Open
- 7:30 am – 10:00 am  
Continental Breakfast
- 8:00 am – 9:00 am  
**Ethics Session**  
It's Eight O'clock – Do You Know Who Your Client Is? Practical Ethics for Healthcare Lawyers
- 9:00 am – 9:15 am  
Break
- 9:15 am – 9:30 am  
State of the Section Address
- 9:30 am – 11:00 am  
**Plenary Session**  
Quality of Care and False Claims Act Liability
- 11:00 am – 11:15 am  
Break



- 11:15 am – 12:30 pm  
**Concurrent CLE Sessions**
  - The New Medicare Appeals Process – A Report from the Field
  - The Patient Safety and Quality Improvement Act of 2005: What It Means for You and Your Clients
  - Hot Topics in Benefits and Executive Compensation
- 12:30 pm – 1:45 pm  
**Interest Group Lunches**
  - Employee Benefits & Executive Compensation
  - Healthcare Facility Operations
  - Managed Care & Insurance
  - Payment & Reimbursement
  - Public Health & Policy
  - Tax & Accounting
- 1:45 pm – 2:00 pm  
Break
- 2:00 pm – 3:30 pm  
**Plenary Session**  
Reweaving the Safety Net: The Challenges and Future of Medicaid
- 3:30 pm – 3:45 pm  
Break
- 3:45 pm – 5:00 pm  
**Concurrent CLE Sessions**
  - Update on Standards for Tax Exemption; Report on IRS Tax-Exempt Bond Initiative
  - Will They Come If You Build It? The Rise of Consumer-Directed Healthcare
  - The Role of Public Health in a Healthcare Law Practice

### Saturday, February 25, 2006

- 8:00 am – 11:00 am  
Open Council Meeting
- 11:00 am – 6:00 pm  
7th Annual Margarita Cup Golf Scramble
- 7:00 pm – 9:00 pm  
Margarita Cup Reception

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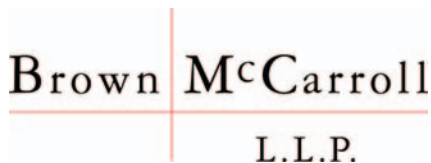
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**Howard T. Wall III**, Senior Vice President & General Counsel, Capella Healthcare, Inc., Franklin, TN  
**Dale Whitney**, Benefits Manager, United Parcel Service, Atlanta, GA  
**Ronald A. Wisor, Jr.**, Arent Fox PLLC, Washington, DC  
**Hilary H. Young**, Joy & Young, LLP, Austin, TX



# Program Agenda

Wednesday, February 22, 2006

■ 12:00 pm – 4:00 pm

**Registration & Information Desk Open**

■ 1:00 pm – 4:00 pm

**Concurrent Sessions**

■ **Fundamentals for Health Lawyers**

This three-hour course is designed as an extended session with speakers succinctly but thoroughly discussing the basic legal issues and principles in the areas of Stark and anti-kickback issues, hospital representation, managed care, and Medicare and Medicaid reimbursement. **This session is offered free of charge for Emerging Issues registrants.** Specific topics include:

**Managed Care**

**Cynthia Marcotte Stamer,**

Glast, Phillips & Murray, PC, Dallas, TX

**Stark/Anti-Kickback**

**Vicki L. Robinson,** Chief, Industry

Guidance Branch, US HHS, Office of the Inspector General, Washington, DC

**Hospital Fundamentals**

**Hilary H. Young,** Joy & Young, LLP, Austin, TX

**Medicare and Medicaid Reimbursement**

**Daniel A. Cody,** Reed Smith LLP, San Francisco, CA

■ **Industry Perspectives on Healthcare**

The healthcare industry continues to present evolving and significant issues and challenges to patients, providers, and policymakers. Industry leaders offer their perspectives on the current and emerging issues, concluding with a panel discussion and a question and answer opportunity. **This session is offered free of charge for Emerging Issues registrants.**

Perspectives and presenters are:

**The Employer Perspective**

**Dale Whitney,** Benefits Manager for UPS (United Parcel Service), Atlanta, GA

**The Hospital/Physician Perspective**

**Michael Regier,** Vice President, Legal Affairs and General Counsel and Corporate Responsibility Officer, SETON Healthcare Network, Austin, TX

**The Managed Care/  
Payor Perspective**

**William A. Barnes,** Vice President of National Contracting, Humana, Birmingham, AL

■ 6:00 pm – 7:30 pm

**Reception Honoring Young Lawyers**

Co-sponsored by the ABA Young Lawyers Division

Join us for an enjoyable time as we invite local young lawyers to meet colleagues and leaders in the Health Law Section. Learn what resources are available to members of the various sponsoring bars. Everyone is welcome!

Thursday, February 23, 2006

■ 7:00 am – 5:00 pm

**Registration & Information Desk Open**

■ 7:30 am – 10:00 am

**Continental Breakfast**

■ 8:00 am – 9:30 am

**Plenary Session**

■ **Hurricane Katrina: Legal Responses and Lessons Learned**

Legal responses to Hurricanes Rita and Katrina included the declaration of a public health emergency, closure of hospitals and other facilities, waiver of certain Medicaid and Medicare requirements in affected areas, waiver of state licensing requirements and specific requirements under EMTALA, granting medical, legal, and nursing professionals temporary emergency licensing and credentialing via expedited procedures, and mass evacuation of patients and other citizens. This session will discuss these and other legal issues resulting from emergencies, whether naturally occurring or manmade, and will underscore the need for healthcare attorneys to be proactive, integrative players in client preparedness, response, and recovery efforts.

**Ernest B. Abbott,** Chair, Homeland Security Committee, FEMA Law Associates, PLLC, Washington, DC

**Anthony M. DiLeo,** Anthony M. DiLeo, APC, New Orleans, LA

**Paula Kocher,** Centers for Disease Control and Prevention, Deputy Associate General Counsel, CDC Branch, US HHS Office of the General Counsel, Public Health Division, Atlanta, GA

**The Honorable Karen Carter**

(D-New Orleans), Louisiana House of Representatives, New Orleans, LA (Invited)

Moderator: **Montrece McNeill Ransom,** Attorney Analyst, Public Health Law Program, Centers for Disease Control and Prevention, Atlanta, GA

■ 9:30 am – 9:45 am

**Break**

■ 9:45 am – 11:00 am

**Concurrent Sessions**

■ **What You and Your Clients Need To Know about Electronic Medical Records and the National Health Information Network**

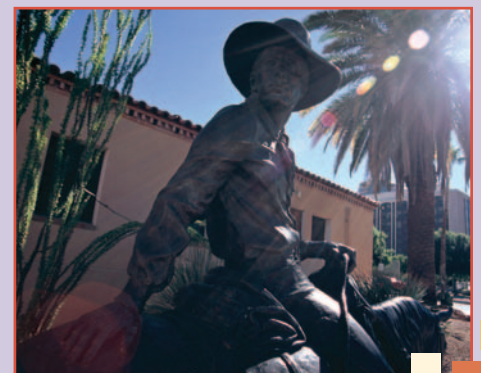
Sponsored by the eHealth, Privacy & Security Interest Group

Electronic medical information is in the news - due to potential administrative savings, reduced medical errors and, most recently, the disruption caused by recent natural disasters. This session will address the ongoing developments related to efforts to move toward an electronic medical record and the overall National Health Information Network. In addition, the panel will address the key legal issues that will arise in this setting over the next decade for health plans, healthcare providers, others in the healthcare industry and their counsel, as these information technology efforts evolve (including privacy, security, kickbacks, financial relationships and interoperability).

**Jodi Goldstein Daniel, MPH,**

Acting Director, Office of Policy and Research, Office of the National Coordinator for Health Information Technology, US HHS, Washington, DC

**Kimberly Gray,** Chief Privacy Officer, Highmark Inc., Camp Hill, PA



## ■ Fraud and Abuse Risks in Real Estate Transactions

Sponsored by the Transactional & Business Healthcare Interest Group  
Real estate developers, physicians, hospitals and other healthcare facilities regularly seek new approaches to healthcare real estate transactions. The agreements consummated as a result of those negotiations are fertile ground for Stark and anti-kickback violations.

In this program, the moderator will present simple and complex hypothetical real estate transaction scenarios common to the healthcare real estate industry, including MOB development and master and sub-lease arrangements. The panelists will address compliance issues, including potential Stark and anti-kickback implications inherent in each scenario.

**Jeffrey A. Calk**, Waller Lansden Dortch & Davis, PLLC, Nashville, TN

**Howard T. Wall III**, Senior Vice President & General Counsel, Capella Healthcare, Inc., Franklin, TN

**Ronald A. Wisor, Jr.**, Arent Fox PLLC, Washington, DC

## ■ Disclosure of Adverse Events and Medical Errors

Sponsored by the Healthcare Litigation and Risk Management Interest Group

States are beginning to pass laws requiring prompt disclosure of adverse events and medical errors. At the same time hospital leaders are giving increasing attention to how hospitals communicate with patients and their families following such an event. Research has found that ineffective communication between physicians and patients is the single most significant factor in explaining why physicians are sued. Equally significant are findings that silence contributes to medical errors. The speakers will draw on their work with hospitals in Pennsylvania in a discussion of effective strategies for disclosure of adverse events, and will also consider the value of apologies, and, when appropriate, making early offers of compensation.

**Chris Stern Hyman**, Attorney, Mediator, and Co-founder, Medical Mediation Group LLC, New York, NY



**Carol B. Liebman**, Clinical Professor of Law, Columbia Law School, New York, NY  
Moderator: **Charity Scott**, Professor of Law and Director, Center for Law, Health & Society, Georgia State University College of Law, Atlanta, GA

## ■ 11:00 am – 11:15 am Break

## ■ 11:15 am – 12:45 pm Plenary Session

### ■ Update on Executive Compensation, New Code Section 409A, and Other IRS Initiatives

Over the past year, there have been a number of federal tax developments applicable to healthcare organizations. In mid-2004, the IRS announced an initiative to contact up to 2000 charitable organizations and ask for a complete description of how they set executive compensation. In October, the American Jobs Creation Act of 2004 added Section 409A (relating to nonqualified deferred compensation) to the Internal Revenue Code. Its broad definition of “deferred compensation” encompasses virtually every form of executive compensation (including severance pay), which creates a new regulatory scheme that overlays the scheme that currently exists under Code Section 457(f). Also in October 2004, the IRS released a new Form 1023 (Application for Recognition of Exemption), which extensively revised the prior tax-exemption application to include specific questions in a number of areas (including the procedure for

establishing executive compensation). In October 2005, the IRS released a draft Form 990 for public comment and review, which includes a new schedule that focuses on compensation. In November 2005, the IRS EO Division released its FY 2006 Implementing Guidelines and announced a new initiative focusing on nonprofit hospitals, including inquiries concerning their executive compensation practices. This program will review the broad scope of Section 409A, its impact on virtually all executive compensation, and its interplay with the historic tax regime under Section 457(f). The program also will survey the status of the IRS initiatives and the revisions made to Form 990 and Form 1023.

**Karen B. McAfee**, Gardner Carton & Douglas LLP, Washington, DC

**Gregory L. Needles**, Morgan, Lewis & Bockius LLP, Washington, DC

**Cheryl E. Press**, Senior Attorney Advisor, Officer of Chief Counsel, Internal Revenue Service, Washington, DC

## ■ 12:45 pm – 1:00 pm Break

## ■ 1:00 pm – 2:30 pm Interest Group Lunches

- eHealth, Privacy & Security
- Healthcare Fraud & Compliance
- Healthcare Litigation & Risk Management
- Medical Research, Biotechnology & Clinical Ethical Issues
- Transactional & Business Healthcare

## ■ 2:30 pm – 2:45 pm Break

## ■ 2:45 pm – 4:15 pm Plenary Session

### ■ New Frontiers in Provider Compensation

The panel will discuss developments in novel forms of provider reimbursement, including gainsharing and Pay for Performance models as well as changes in federal government policy in this area.

**Andrew J. Demetriou**, Fulbright & Jaworski LLP, Los Angeles, CA

**Joane Goodroe**, Goodroe Healthcare Solutions, LLC, Norcross, GA

■ 4:15 pm – 4:30 pm  
Break

■ 4:30 pm – 5:45 pm  
**Concurrent Sessions**

■ **Mission Impossible? The Challenges of Structuring Compliant Ancillary Service Arrangements**

Sponsored by the **Healthcare Fraud & Compliance Interest Group**

Arrangements between medical imaging centers that perform MRI, CT, and similar diagnostic imaging scans and the physicians who refer patients to those centers have recently come under fire from federal and state regulatory and enforcement authorities and commercial insurers. This panel will identify the fraud and abuse risks associated with the most common types of imaging and other ancillary service arrangements and discuss best practices for structuring such business arrangements.

**Patrick D. Seiter, MPH**, Adams and Reese LLP, Baton Rouge, LA

**Carol A. Poindexter**, Shook, Hardy & Bacon LLP, Kansas City, MO

■ **Claims Processing under the New World Order**

Sponsored by the **Managed Care & Insurance Interest Group**

Health plan payors and healthcare providers are struggling to develop effective strategies to administer their respective health claims billing, processing, and payment activities amid the shifting regulatory environment driven by HIPAA, changing ERISA and state insurance regulations, and rising enforcement and litigation. This panel of experts will explore the implications of these and other developments on the billing and claims administration practices commonly used by healthcare payors and providers, explore their implications on coverage verification, preauthorization and utilization management, other common healthcare claims processing practices.

**Douglas S. Clarkson**, Tenet Healthcare Corporation, Dallas, TX

Moderator: **Cynthia Marcotte**

**Stamer**, Glast, Phillips & Murray, PC, Dallas, TX

■ **Hidden Traps in Clinical Trials**  
Sponsored by the **Medical Research, Biotechnology & Clinical Ethical Issues Interest Group**

Clinical research is a 'front burner' issue for many healthcare attorneys. The federal government's recent enforcement initiatives regarding clinical research make it all the more important that healthcare clients are aware of and comply with the regulatory requirements involved in every clinical trial they undertake. Panelists in this session will give a brief overview of the clinical trials process and will discuss the federal government's latest enforcement priorities.

**Pat Stanfill Edens**, Assistant Vice President, Hospital Corporation of America, Nashville, TN

**Bruce F. Howell**, Hughes & Luce, LLP, Dallas, TX

**William C. Moran**, Former Regional Inspector General for Region V of the Office of the Inspector General, US HHS, Chicago, IL

■ 6:00 pm – 8:00 pm  
**Welcome Reception**

Underwritten by **BNA, Inc.**



Through generous partnership with BNA, Inc., we invite you to attend the Welcome Reception to be held immediately following the afternoon's last session. This is a perfect time to get to know your fellow attendees and enjoy stimulating conversation and great food.

Friday, February 24, 2006

■ 7:30 am – 4:00 pm  
**Registration & Information Desk Open**

■ 7:30 am – 10:00 am  
**Continental Breakfast**

■ 8:00 am – 9:00 am  
**Ethics Session**

■ **It's Eight O'clock – Do You Know Who Your Client Is? Practical Ethics for Healthcare Lawyers**

When clients are in the spotlight, their lawyers may be on the hot seat. In the challenging world of healthcare law, lawyers sometimes must face difficult issues of professional responsi-

bility: conflicts of interest, privilege and confidentiality issues, disclosure of violations and the new relationships between boards and managers. This session will explore a variety of current professional responsibility issues through hypotheticals and analysis. Start the day with a good dose of ethics. You'll be glad you did!

**Andrew J. Demetriou**, Fulbright & Jaworski LLP, Los Angeles, CA

**William W. Horton**, Haskell Slaughter Young & Rediker, LLC, Birmingham, AL

■ 9:00 am – 9:15 am  
**Break**

■ 9:15 am – 9:30 am  
**State of the Section Address**

Section Chair Gregory Pemberton will discuss the activities, achievements, and aspirations of the ABA Health Law Section.

■ 9:30 am – 11:00 am  
**Plenary Session**

■ **Quality of Care and False Claims Act Liability**

Although the gravamen of federal False Claims Act liability is a false claim or record, for many years prosecutors have advanced theories under which quality of care deficiencies might support FCA liability. Recent cases suggest these theories are becoming a reality. In July 2005 the U.S. Attorney for the Eastern District of Pennsylvania announced the settlement of a FCA case predicated upon an acute-care provider's alleged violation of Medicare conditions of participation concerning use of restraints. That same year that office also settled an FCA case against a prescription benefit manager, which included allegations that patients had been inappropriately switched from one medication to another, potentially at the expense of the patient's medical interests. In 2003, the U.S. Attorney for the Eastern District of California obtained a \$54 million fine to resolve allegations that physicians at a California hospital had performed unnecessary heart catheterizations. These cases may foreshadow a new focus on sub-standard medical services as predicates for FCA liability. This panel will review these recent cases

and discuss what lessons they offer providers and their counsel in terms of litigation risk and compliance.

**James G. Sheehan**, Associate US Attorney, Eastern District of Pennsylvania, Philadelphia, PA

**Cheryl Wagonhurst**, Outgoing Chief Compliance Officer, Tenet Healthcare Corporation, Santa Barbara, CA

**Frederick "Rick" Robinson**, Fulbright & Jaworski LLP, Washington, DC

■ **11:00 am – 11:15 am**  
**Break**

■ **11:15 am – 12:30 pm**  
**Concurrent Sessions**

■ **The New Medicare Appeals Process – A Report from the Field**

Sponsored by the Payment & Reimbursement Interest Group  
Beginning in May 2005, the Centers for Medicare & Medicaid Services implemented significant changes to the Medicare appeals process. Such changes include a new, uniform five step appeals process for both Medicare Part A and Part B providers and suppliers, establishment of new appeal entities, the consolidation of all Medicare appeals with the Department of Health and Human Services, and changes in the beneficiary appeals process. This program will provide an overview of the changes, and report on successes and shortcomings of the new process.

**Daniel A. Cody**, Reed Smith LLP, San Francisco, CA

**Stephen M. Sullivan**, Sullivan, Stoller & Resor, APLC, New Orleans, LA

■ **The Patient Safety and Quality Improvement Act of 2005: What It Means for You and Your Clients**

Co-Sponsored by the Healthcare Litigation & Risk Management and Healthcare Facility Operations Interest Groups

The presentation will begin with an overview of the Patient Safety and Quality Improvement Act of 2005 and a careful examination of the new terminology used in the Act. The speakers will analyze the confidentiality and

privilege protections afforded by the Act, contrast those with existing protections under federal and state law and discuss the importance of the preemptive nature of the Act. Finally, the speakers will discuss the impact of the Act on peer review activities, including the "tension" between attempts to protect the confidentiality of information and maintaining an open and transparent relationship with patients.

**Charles M. Key**, The Bogatin Law Firm, PLC, Memphis, TN

**Steven R. Smith**, Ober Kaler, Washington, DC

■ **Hot Topics in Benefits and Executive Compensation**

Sponsored by the Employee Benefits and Executive Compensation Interest Group

Medicare Part D took effect January 1, 2006. The panel will review the compliance issues and what is happening in the real world as the employer community reacts to its new responsibilities. Meanwhile, the proposed 403(b) regulations are to be finalized the first half of 2006, effective January 1, 2007. The panel will review with Bob Architect of the IRS those provisions of particular interest to the tax-exempt community.

**Robert J. Architect**, Senior Tax Law Specialist, Internal Revenue Service, Washington, DC

**Eugene Holmes**, Morgan, Lewis & Bockius, Washington, DC

**Christopher S. Sears**, Ice Miller, Indianapolis, IN

Moderator: **Linda E. Rosenzweig**, Seyfarth Shaw LLP, Washington, DC

■ **12:30 pm – 1:45 pm**  
**Interest Group Lunches**

- Employee Benefits & Executive Compensation
- Healthcare Facility Operations
- Managed Care & Insurance
- Payment & Reimbursement
- Public Health & Policy
- Tax & Accounting

■ **1:45 pm – 2:00 pm**  
**Break**

■ **2:00 pm – 3:30 pm**  
**Plenary Session**

■ **Reweaving the Safety Net: The Challenges and Future of Medicaid**

The Medicaid program has long provided a medical safety net for Americans with limited incomes. In recent years rising costs, expanding caseloads, and the weakening of traditional health insurance markets have prompted "reform" efforts designed to achieve financial stability. This plenary session will assess the state of Medicaid, the options under consideration for reform, and the current prospects for major program revisions. A representative from state government will discuss state innovations and reforms proposed by state Medicaid Directors. An industry representative will provide insight on implementation of the program on the front lines, and what such experience suggests for effective reform. A third panelist will assess the future of the program from the perspective of eligible beneficiaries.

**Donna E. Checkett, MPA, MSW**, Senior Vice President of Medicare and Medicaid Programs, Schaller Anderson, Inc., Phoenix, AZ

**Jane Perkins**, Legal Director, National Health Law Program, Chapel Hill, NC

**Anthony D. Rodgers**, Director, Arizona Health Care Cost Containment System (AHCCCS), Phoenix, AZ





■ 3:30 pm – 3:45 pm  
**Break**

■ 3:45 pm – 5:00 pm  
**Concurrent Sessions**

■ **Update on Standards for Tax Exemption; Report on the IRS Tax-Exempt Bond Initiative**

Sponsored by the Tax & Accounting Interest Group

Standards for hospital tax-exempt status are still under scrutiny. Important critics have complained that nonprofit hospitals cannot be distinguished from their for-profit counterparts, and are not sufficiently charitable to merit tax-exempt status. They suggest that the current “community benefit” standard for tax exemption should be replaced. Hearings were held by the House Ways & Means Committee in May 2005, with an emphasis on tax-exempt hospitals, and the Senate Finance Committee has also made specific inquiries of tax-exempt hospitals. Roger Colinvaux of the staff of the Joint Committee on Taxation will present updates on legislative developments.

The panel will also present an update on IRS tax-exempt bond enforcement activities. The status of outstanding tax-exempt bonds, and especially the limitations on private business use applicable to “qualified 501(c)(3) bonds,” is of particular importance to hospitals. In July 2005 the IRS announced a new enforcement initiative aimed at tax-exempt bonds. Clifford J. Gannett, the IRS’s Manager, Tax-Exempt Bond Outreach, Planning & Review, will give a report on this initiative.

**Roger Colinvaux**, Legislation Counsel, Joint Committee on Taxation, Washington, DC

**Clifford J. Gannett**, Manager, Tax-Exempt Bond Outreach, Planning & Review, Internal Revenue Service, Washington, DC

Moderator: **Laura Gabrysch**, Fulbright & Jaworski LLP, San Antonio, TX

■ **Will They Come If You Build It? The Rise of Consumer-Directed Healthcare**

Sponsored by the Managed Care & Insurance Interest Group

Consumer Driven Healthcare (CDHC) is the umbrella term

applied to a series of health benefit plan designs, products and services intended to shift the health benefits world from a defined benefits model to a defined contribution model and to reintroduce a stronger element of consumerism in the consumption of healthcare services. CDHC products are making substantial inroads in the health benefits market place and are being touted as the principal healthcare cost containment strategy for the 21st Century. More than one in four Americans are faltering under the burden of health costs – cutting corners by skipping treatments or not taking prescriptions. Are Health Savings Accounts, high-deductible health plans and Health Reimbursement Accounts effective solutions?

**Bobbie Lauer**, Vice President, Sales & Marketing, Definity Health Corporation (United HealthCare), Minneapolis, MN

**Jeffrey N. Saunders**, Fulbright & Jaworski LLP, Minneapolis, MN

Moderator: **R. Jeffrey Layne**, Fulbright & Jaworski LLP, Austin, TX

■ **The Role of Public Health in a Healthcare Law Practice**

Sponsored by the Public Health & Policy Interest Group

This session will feature a discussion of significant public health rulings issued by state and federal courts in the past few years, review traditional and emerging issues in public health law, including the role of legal counsel in preparing clients and the community for public health emergencies, and discuss practical ways to effectively integrate important public health law and legal principles, including emergency legal preparedness and others, into your legal practice.

**Priscilla D. Keith**, General Counsel, Health and Hospital Corporation of Marion County, Indianapolis, IN

**Dan O’Brien**, General Counsel, Maryland Office of the Attorney General, Public Health Services, Baltimore, MD (Invited)

**Karen Thiel, PhD**, Patton Boggs, Washington, DC

■ 5:00 pm  
**CLE Program Adjourns**

Saturday, February 25, 2006

■ 8:00 am – 11:00 am  
**Open Council Meeting**

All members are welcome to attend the Section Open Council Meeting.

■ 11:00 am – 6:00 pm  
**7th Annual Margarita Cup Golf Scramble**

A separate fee will apply.

Are you an absolutely great golfer who should really be on the PGA? If so, this may **not** be the event for you! Join us for a highly entertaining afternoon of golf (scramble format) at the Cañada Course of the Hilton Tucson El Conquistador Golf & Tennis Resort. Players of **all** levels are welcome and fun prizes will be awarded at the reception immediately following the event.

■ 7:00 pm – 9:00 pm  
**Margarita Cup Reception**

Whether you braved the course or cheered from the sidelines, join us for the perfect end to a great few days of CLE and collegiality as we end the Emerging Issues conference with our annual Margarita Cup reception. All attendees and their guests are welcome.



# Conference Information

## REGISTRATION:

Register by **FEBRUARY 13, 2006** online, by fax, or U.S. Mail. Registration will be accepted only when accompanied by payment.

## Online

<http://www.abanet.org/health>

## Fax

312/988-6797

## U.S. Mail

American Bar Association  
Health Law Section  
321 North Clark Street  
Chicago, IL 60610

## ON SITE REGISTRATION:

Please call 312/988-5532 by **FEBRUARY 17, 2006** to ensure space availability. On site registration will only be accepted when accompanied by check, money order, Visa, American Express, or MasterCard information.

## CANCELLATION POLICY:

Tuition, less a \$50 handling charge for each registration, will be refunded upon written cancellation received no later than **FEBRUARY 13, 2006**. Cancellations received after this date cannot be refunded but substitutions are encouraged. The ABA reserves the right to cancel any program and assumes no responsibility for personal expenses.

## REGISTRATION FEE

Your payment will cover admission to the program, continental breakfasts, coffee breaks, tickets to the IG Luncheons on each day, receptions, and one set of program course materials.

## INTEREST GROUP LUNCHESES

Registrants are encouraged to attend the Interest Group lunch of their choice on both Thursday and Friday. There is no additional charge, but registrants must pre-register for the lunch meeting of their choice. They will receive tickets to guarantee boxed lunches will be reserved and placed in the meeting room where the IG meeting will be held.

## HOTEL INFORMATION:

The conference will be held at the Hilton Tucson El Conquistador, which is located at 10000 N. Oracle Road, Tucson, Arizona 85704. Please call (520) 544-5000 to reserve your room no later than **FRIDAY, JANUARY 20, 2006** and mention the American Bar Association Health Law Section 7th Annual Conference on Emerging Issues Room Block. Room rates are \$190 for a single or double room.

## AIRLINE INFORMATION:

The resort is approximately 20 miles (30-40 minutes) from Tucson International Airport. To obtain discounts through the ABA Meeting Discounted Airfares Program, please refer to the special ABA discount code below when using American Airlines:

**American Airlines**  
**(800/433-1790)**  
**Discount Code: 18395**

## CLE CREDIT:

CLE has been requested from every state with general mandatory continuing education requirements for lawyers. For information on the approved number of credit hours to be awarded by each state, please contact the Health Law Section directly at 312/988-5532 after **FEBRUARY 1, 2006**.

## HEALTH LAW SECTION MEMBERSHIP:

As an added bonus to new members, the member's tuition rate will be available to registrants who become members of the ABA Health Law Section. Membership dues are not deductible as charitable contributions for federal income tax purposes, but such dues may be deductible as a business expense.

## TAX DEDUCTION FOR EDUCATIONAL EXPENSES:

An income tax deduction may be allowed for educational expenses undertaken to maintain or improve professional skills. This includes registration fees, travel, meals, and lodging expenses. (see Treas. Reg. 1.162-5) (Coughlin vs. Commissioners, 203 F 2d 307)

## SERVICES FOR PERSONS WITH DISABILITIES:

If special arrangements are required for an individual with a disability to attend this program, please submit your request in writing to Abigail Palagi, American Bar Association Health Law Section, 321 N. Clark St., Chicago, IL 60610, or fax to 312/988-6797.

## DRESS CODE:

Resort casual attire is appropriate for all meetings, CLE programs and social events during the program – no business suits, ties or stockings! However, the meeting rooms tend to be cool, so be sure to carry a sweater or light jacket.



# Program Registration

## PROGRAM REGISTRATION FORM

Name \_\_\_\_\_

First Name for Name Badge \_\_\_\_\_

Company Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

E-mail Address \_\_\_\_\_

ABA ID # \_\_\_\_\_

States in which you are licensed (please list all) \_\_\_\_\_

## 3 ways to register



**ONLINE**  
<http://www.abanet.org/health>



**BY FAX**  
 312/988-6797



**BY MAIL**  
 ABA Health Law Section  
 321 North Clark Street  
 Chicago, IL 60610

### Part A

#### REGISTRATION FEES:

- \$ 995 General Attendees (non-ABA Members)
  - \$ 795 ABA Member, Non-Health Law Member
  - \$ 695 **ABA Health Law Member \*\***
  - \$ 250 Government / Academic
  - \$ 75 Student
- \*\* Take advantage of this today when you sign up for ABA Health Law Section membership! See Part C below.

### Part B

#### FUNDAMENTALS/INDUSTRY PERSPECTIVE SESSIONS:

- No, I will not attend the Fundamentals Program or the Industry Perspective Session
  - Free!* I will attend the **Fundamentals Program**. The fee is waived with my paid Emerging Issues Conference Registration
  - Free!* I will attend the **Industry Perspective Session**. The fee is waived with my paid Emerging Issues Conference Registration
  - \$ 125 **Fundamentals Program** or the **Industry Perspective Session** for non-Health Law Section Members (if *not* attending Emerging Issues Conference – please indicate only one):
  - \$ 75\*\* **Fundamentals Program** or the **Industry Perspective Session** for Health Law Section Members (if *not* attending Emerging Issues Conference – please indicate only one):
- \*\* Take advantage of this today when you sign up for ABA Health Law Section membership! See Part C below.

### Part C

#### HEALTH LAW SECTION MEMBERSHIP

- \$ 50 Please sign me up for ABA Health Law Section membership (you must be a member of the American Bar Association to join the Health Law Section)

### Part D

#### INTEREST GROUP LUNCHES

There is no additional charge to attend either or both days of Interest Group Lunch Meetings. However, the lunches will be ticketed, therefore registrants must indicate which lunch(es) they plan to attend.

##### Thursday Lunch Meetings:

Please choose to attend one of the following:

- eHealth, Privacy & Security
- Healthcare Fraud & Compliance
- Healthcare Litigation & Risk Management
- Medical Research, Biotechnology & Clinical Ethical Issues
- Transactional & Business Healthcare

##### Friday Lunch Meetings:

Please choose to attend one of the following:

- Employee Benefits & Executive Compensation
- Healthcare Facility Operations
- Managed Care & Insurance
- Payment & Reimbursement
- Public Health & Policy
- Tax & Accounting

### Part D

#### 7TH ANNUAL HLS MARGARITA CUP GOLF SCRAMBLE

Shotgun tee time begins at 11:00 am Saturday. Please arrive at the golf course NO LATER than 10:45 am, depending on your assigned tee time. Don't forget to join us at the reception immediately following the golf event!

- \$ 75 7th Annual Margarita Cup Golf Scramble

### Part E

#### COURSE MATERIALS

One set of course materials (either Paperback Book or CD ROM) is included in the registration fees. Please indicate your preference below. For an additional charge of \$25, attendees can receive both versions of the materials. Please note that those registrants not indicating a preference will receive materials in the CD ROM version only.

- No Additional Charge** 7th Annual Conference on Emerging Issues in Healthcare Law **Paperback Book**
- No Additional Charge** 7th Annual Conference on Emerging Issues in Healthcare Law **CD ROM**
- \$25** 7th Annual Conference on Emerging Issues in Healthcare Law **CD ROM and Paperback Book**
- Unable to Attend and Wish to Purchase the Materials?**
- I cannot attend the conference but wish to order the course materials. Enclosed is my payment or credit card information. (Please allow 3-4 weeks after completion of the conference for delivery of materials)
- \$150** 7th Annual Conference on Emerging Issues in Healthcare Law **Paperback Book**
- \$150** 7th Annual Conference on Emerging Issues in Healthcare Law **CD ROM**
- \$175** 7th Annual Conference on Emerging Issues in Healthcare Law **CD ROM and Paperback Book**

#### Category

Registration (A): \_\_\_\_\_ \$ \_\_\_\_\_  
 Fundamentals/Industry Perspective Session (B): \_\_\_\_\_ \$ \_\_\_\_\_  
 Section Dues (C): \_\_\_\_\_ \$ \_\_\_\_\_  
 Margarita Cup (D): \_\_\_\_\_ \$ \_\_\_\_\_  
 Course Materials (E): \_\_\_\_\_ \$ \_\_\_\_\_

**TOTAL FEES:** \$ \_\_\_\_\_

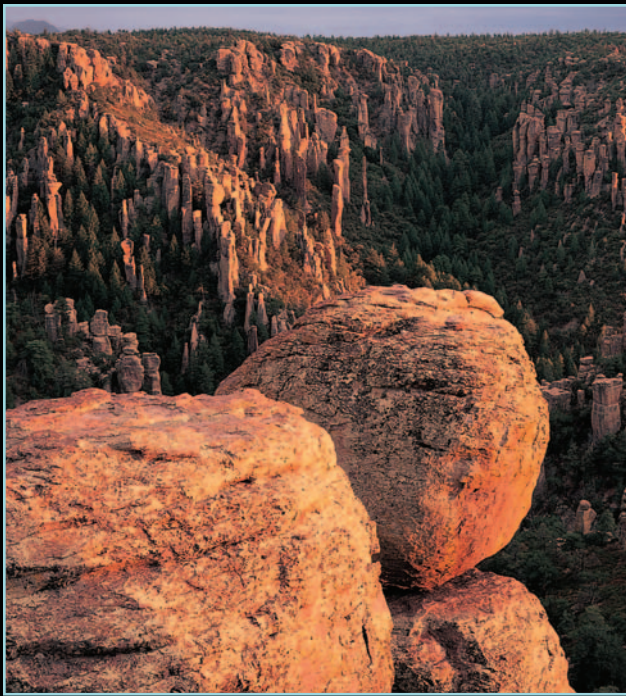
#### METHOD OF PAYMENT:

- CHECK enclosed (payable to the American Bar Association)
- VISA  MasterCard  American Express

Card # \_\_\_\_\_

Exp. Date \_\_\_\_\_

Cardholder Signature \_\_\_\_\_



## 7th Annual Conference on Emerging Issues in Healthcare Law 2006

Hilton Tucson El Conquistador  
Tucson, Arizona

Program Date: **February 22 – 24, 2006**

Registration Deadline: **February 8, 2006**

Hotel Room Block Deadline: **January 20, 2006**

### American Bar Association Health Law Section

321 N. Clark Street  
Chicago, IL 60610-4714



First-Class Mail  
U.S. Postage  
**PAID**  
American Bar  
Association

### Hilton Tucson El Conquistador Golf & Tennis Resort

One of the top resorts in Tucson, Arizona, the Hilton Tucson El Conquistador Golf & Tennis Resort is set at the base of the Santa Catalina Mountain range in Northwest Tucson, AZ. Inspired by the beauty of its pristine natural canyon views and lush desert surroundings, this luxury full-service Tucson hotel is equipped with golf, tennis and conference facilities and the perfect location to enjoy your next vacation or conference.

The Hilton Tucson El Conquistador is the largest golf resort in Southern Arizona offering 45-holes of championship golf on three different courses: The Conquistador, The Cañada and Pusch Ridge. We cater to all levels of golf enthusiasts with a comprehensive golf academy.

#### ■ Special Features

45-holes of Championship golf; 31 lighted tennis courts; luxury spa services including health club; Water Park including 143-foot "Sliderock" waterslide, hot and cold springs, and kid's pool; five distinctive restaurants; and on-site equestrian facilities.

#### ■ Dining & Entertainment

- **Sundance Café** - Open daily for breakfast and lunch.
- **Dos Locos** - Specializing in Nuevo Latino cuisine. Open nightly for dinner.
- **Last Territory Steakhouse & Music Hall** - Upscale steakhouse with an old-west theme and live entertainment nightly.
- **Desert Spring** - Casual poolside dining.
- **La Vista Café** - Casual dining at the El Conquistador Golf Club.

#### ■ Room Features:

All of the Hilton guestrooms and suites include amenities such as: minibars, luxurious guest robes, hairdryer, in-room movies, double data-port and wireless high-speed Internet access. Relax and unwind in the beautiful high desert at one of the premier Arizona desert resorts.

### Conference Social Events

#### ■ Reception Honoring Young Lawyers

Co-sponsored by the ABA Young Lawyers Division

Join us Wednesday evening for an entertaining time as we invite local

young lawyers to meet colleagues and leaders in the Health Law Section. Learn what resources are available to members of the various sponsoring bars. Everyone is welcome!

#### ■ Welcome Reception

*Underwritten by BNA, Inc.*

Through generous partnership with BNA, Inc., we invite you to attend the Welcome Reception Thursday evening that will be held at the resort immediately following the afternoon's last session.

#### ■ The 7th Annual Margarita Cup Scramble and Reception

Join others in the Section for a fun afternoon of golf and play on the Cañada Course of the Hilton Tucson El Conquistador Golf & Tennis Resort. Players at ALL levels are welcome and fun prizes will be awarded at a reception immediately following the event.

