Buchalter

Health Care/Life Sciences

Buchalter's Health Care/Life Sciences attorneys provide timely, expert and business-oriented counsel to clients in every aspect of the health care industry, including health systems, hospitals, independent practice associations, medical groups, physicians, provider trade organizations, health care lenders and drug and device companies. We also have significant expertise in counseling specialty hospitals, academic medical centers, Federally Qualified Health Centers, ambulatory surgery centers, management services organizations, emergency room and hospitalist staffing companies, med-spas and nonprofit research organizations. Our lawyers have deep expertise in all aspects of our clients' businesses, from formation through a myriad of regulatory and operational issues to ultimate sale or dissolution.

We are highly skilled in transactions involving health care clients (including navigating the obstacle courses of federal and state regulation) and routinely handle mergers and acquisitions, joint ventures, syndications, disaffiliations and contractual relationships of all kinds. We are thoroughly versed in the regulatory aspects of our clients' businesses, and commonly provide advice regarding the federal Stark, Anti-Kickback and False Claim Act statutes (and their state-law analogues), HIPAA, EMTALA, license and staff privilege issues, tax-exemption issues and corporate practice of medicine issues. Our attorneys are well versed in health care reform legislation and regulations and can guide clients through the formation and implementation of integrated delivery systems and accountable care organizations. We have significant expertise in the specialized area of financially distressed health care businesses, and we represent purchasers, lenders, ombudsmen, creditors' committees, debtors and many others in bankruptcy and workout situations.

Our health care lawyers work collaboratively with our colleagues throughout the firm. On behalf of our health care clients we are able to draw upon expert corporate, tax, litigation, labor and employment, intellectual property, real estate, commercial finance, insolvency, corporate governance and executive compensation advice, so that our client representation is truly complete and seamless.

Health Care Transactions

Our health care transactional lawyers are, first and foremost, experienced and skilled transactional and business lawyers. We are adept at structuring, negotiating, drafting and guiding our clients through all aspects of the transaction to closing and beyond. Our mergers and acquisitions practice includes both the sale and acquisition of hospitals and health systems, large and small physician practices, clinical laboratories, IPAs, ambulatory surgery centers, medical foundations and drug and device companies. We represent clients in all manner of joint ventures, including medical foundations, ACOs and co-management arrangements. We assist clients with the entry into contractual relationships, and the sometimes necessary termination of an equity investment or contractual relationship. We pride ourselves on our creativity and our ability to think strategically, so that our clients are able to get from point A to point B, even if business or regulatory obstacles block the most obvious route.

Financially Troubled Health Care Businesses

Our attorneys' bankruptcy and insolvency expertise includes representation of asset purchasers, secured and unsecured lenders, creditors' committees, debtors, trustees, receivers, landlords, equipment lessors, individual creditors, patient care ombudsmen and many others in health care bankruptcy and reorganization cases, out-of-court debt restructurings, receiverships, assignments for the benefit of creditors, dissolutions, and liquidations. We have significant experience in Section 363 sales of hospitals and other health care businesses in bankruptcy. These transactions often involve complex and simultaneous negotiations with numerous parties in interest, as well as regulators and government payment programs. At the same time, we address operating and regulatory issues that can become critical as a result of a health care business's financial difficulties. Our bankruptcy expertise also enables us to counsel financially healthy clients in business relationships with financially troubled entities.

Managed Care Reimbursement and Contracting

In an extremely competitive environment, our clients look to us to maximize reimbursement from managed care organizations. Our many years of experience in managed care negotiation and contract interpretation have given us a unique and valuable knowledge base from which to identify trends and spot problematic contract language before our clients enter into long-term contractual arrangements. We have a thorough understanding of the Knox-Keene Act, as well as Medicare and Medicaid managed care programs, such as Medi-Cal. We identify key points for negotiation and recommend contract terms to avoid payment disputes. We help our clients resolve regulatory issues with federal and state agencies, including California's Department of Managed Health Care. We can prepare license applications and bring our clients' concerns to the attention of the appropriate governmental departments or agencies.

Fraud and Abuse

The health care attorneys at Buchalter provide guidance on the application of the Stark Law, the Anti-Kickback Statute, and other federal and state legislation and regulations applicable to health care business transactions. We assist clients with physician contracts, physician recruitment agreements, space and equipment leases, management arrangements, joint venture arrangements, equity investments and managed care contracts to ensure compliance with the law. We develop compliance training and policies and procedures and provide assistance with self-disclosure of noncompliant arrangements.

Provider Payment Issues

We have significant expertise in provider payment issues, including the rights of nonparticipating providers, issues presented by "surprise" out-of-network providers, payor recognition of assignments, workers compensation reimbursement, medical necessity disputes, third-party "re-pricing," RAC audits, hospital acquired infection denials, as well as short-pay, late-pay, and delegated entity payment concerns. With shrinking profit margins for health care providers, recovery of unpaid reimbursement is vital. We recover payment through negotiation, appeals, litigation, arbitration and mediation, as necessary.

HIPAA and Privacy Concerns

We are frequently called upon to advise clients regarding their privacy and security obligations under HIPAA and HITECH. We also prepare business associate agreements, develop data management and security policies, assist with compliance assessments and provide in-service training regarding privacy and security requirements and practices.

Health Care Finance

Health care finance is a core specialization of Buchalter's nationally-renowned commercial finance practice. We represent health care lenders of all kinds, from health care receivable factors to health care finance companies, to regional banks, to large international banks, in both asset-based and cash flow transactions. We have represented clients in finance transactions across the spectrum of the health care industry, including device manufacturers, pharmaceutical companies, hospitals, acute and long term care facilities, drug store chains, health care staffing companies, and independent physician associations, among others. In addition to our general commercial finance expertise, we are able to assist our health care lender clients in performing legal due diligence on their health care borrowers, including verification of proper licensing, certifications and compliance with applicable health care laws and regulations. Our attorneys are also

expert in perfecting security interests in, and creating mechanisms for dominion and control over, health care receivables, including both governmental and non-governmental receivables, as well as special governmental program receivables such as disproportionate share hospital payments. In addition to our lender-representation practice, we also represent health care borrowers in financing transactions. Our vast experience in what are "market" terms and provisions allows us to provide such borrower-side representation most efficiently to protect the borrower's interests.

Real Estate and Real Estate Finance

Our real estate attorneys represent clients in all aspects of real estate and real estate finance, including both buyers and sellers of real property, both landlords and tenants in commercial lease transactions, and both lenders and borrowers in real property financing transactions. In the health care area, we are experienced in hospital leases, medical office building leases, land use issues, purchases and sales of health care properties, mortgages and deeds of trust on health care properties, tax credit transactions, tax exempt bond financings, and if needed, loan modifications, forbearances, and foreclosures.

Labor and Employment

Our labor and employment attorneys partner closely with clients to provide broad, proactive counsel that minimizes risk exposure. Our critical risk management solutions allow clients to focus on managing their businesses while we manage the details of their employment problems. From preemptive advice, and review of procedures and practices, to employer representation in court or before administrative agencies, we have the expertise to advise and protect our health care clients on a wide range of employment issues that arise in today's litigious climate. We work closely with management to assure workplace compliance and immediate response when conflict arises. We prepare and implement employee handbooks, advise on personnel matters, negotiate employment and severance agreements and defend lawsuits. We also represent Taft-Hartley benefit plans. Our clients vary from small medical practices to large institutions, and we tailor our advice to consider its practical application to each client's particular size and complexity.

Patents and Trademarks

Our intellectual property attorneys have helped numerous clients in the health care space in all facets of counseling, protection and enforcement of their intellectual property rights. Our attorneys have expertise in determining not only the protectability of a variety of patents and trademarks used by and in connection with health care companies but have also assisted clients in enforcing the trademarks and patents that are already owned by the clients to ensure the integrity and value of the same. In addition, our attorneys have practical experience in working with health care and medical companies on a regular basis and have years of experience in advising such companies on their intellectual property matters.

Health Care Litigation

Our litigators represent our health care clients in federal and state court litigations, arbitrations, mediations, and settlement negotiations involving nearly all areas of commercial and financial activity. Although we do not prosecute or defend medical malpractice cases, our litigators work closely with our health care lawyers to provide first class, sophisticated and practical representation and dispute resolution counseling in a broad range of matters, including corporate governance, securities, reimbursement, breach of contract, real estate, theft of confidential and trade secret information, unfair competition, intellectual property and employment. Have substantial trial and appellate experience. We nevertheless understand our clients' concerns regarding the expense of protracted litigation, so we concentrate on practical, expedient, cost-effective dispute resolution and settlement negotiation whenever possible.

Tax

The tax consequences of health care transactions are an important part of business decision-making. Our experienced tax lawyers understand the tax implications of various business arrangements. We understand the challenges unique to nonprofit entities and carefully structure arrangements to preserve nonprofit status. We also represent for-profit companies and advise on the tax implications of many types of transactions for business entities, owners, partners, members, and shareholders.