

Working in Harmony

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SantaFe HealthCare, Inc. and Carlton Fields, P.A.

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By Scott M. Gawlicki Stephen J. deMontmollin, senior vice president and general counsel for Gainesville, Fla.-based SantaFe HealthCare, Inc. and its affiliates, has a unique take on the company's relationship with Carlton Fields, P.A. "Carlton Fields is our primary law firm for public policy, regulatory affairs and insurance law," deMontmollin explains. "They know our business well, and they know what to watch out for when it comes to potential changes in Florida's health care regulations. For us, it's like having a canary in the coal mine." Indeed, when you operate in the complex, highly regulated world of health care services, it pays off big-time to have a legal adviser watching your back, 24/7. "A recent Wall Street study asked analysts to identify hidden assets that distinguish successful health care companies. Most pointed to a company's ability to avoid regulatory enforcement, and I couldn't agree more. We are keenly aware of the need to work in harmony with our regulators, and Carlton Fields plays a major role in helping us do that," deMontmollin says. *A Relationship Begins*

Carlton Fields serves SantaFe HealthCare's three principal affiliates — AvMed Health Plans, North Central Florida Hospice, Inc. d/b/a Haven Hospice and SantaFe Senior Living, Inc. The relationship began with AvMed, the largest of the three. In 2001, Florida's legislature was about to adopt sweeping new health care regulations recommended by the National Association of Insurance Commissioners. The measures, which changed the way certain assets can be applied to an HMO's critically important solvency requirements, would have dealt AvMed a major financial challenge. AvMed wasn't opposed to the changes; it just needed additional time to ensure full compliance. DeMontmollin, a former assistant U.S. attorney for the Southern District of Florida and the state's first chief inspector general under Governor Lawton Chiles, called **Rheb Harbison**, Carlton Fields' senior government lobbyist. "I knew he'd worked as a lobbyist for the Florida Supreme Court earlier in his career. So I figured if he could help an organization like the Florida Supreme Court, he could probably help us as well." Harbison, along with Shareholder **Kelly A. Cruz-Brown**, spearheaded a team that put together an alternative plan that would phase in the measures over a five-year period. Doing so, they argued, would allow AvMed to remain in compliance with the state's solvency requirements while gradually restructuring its assets and operations. "The effective date was just too quick," Harbison says. "It wasn't the legislature's intent to put a Florida HMO in a bad situation.

Similar measures had been put in place in other states, so national HMOs were already in compliance. But this was a new experience for Florida HMOs like AvMed. So my job was to either kill the legislation or amend it to take care of my client.” While Harbison lobbied legislators in Tallahassee, Fla., Cruz-Brown pleaded AvMed’s case to Florida’s Office of Insurance Regulation. “Part of the process involved helping AvMed with its discussions and formal response to the proposed changes. Companies are allowed, for example, to review new regulations in draft form and respond back with disagreements,” Cruz-Brown says. “I basically explained how the proposed legislation would affect AvMed if it went into effect immediately, versus our alternative plan. Other issues came up as well, including rates and various AvMed products, so the issue became pretty comprehensive in nature.” After three months of lobbying and discussions, legislators and regulators agreed to the AvMed phase-in proposal. “That was obviously an ideal outcome,” says Michael P. Gallagher, president and chief executive officer for SantaFe HealthCare. “Since that time, AvMed has attained record levels of capital, liquidity and profitability, which have been invested in new products, wellness and quality initiatives, and service excellence programs as AvMed continues to grow its market share.” *Staying Ahead of the Curve*

Of course, a new legal partnership was born as well, one that would help establish new, more proactive procedures designed to keep AvMed and other SantaFe HealthCare affiliates ahead of the regulatory curve. Cruz-Brown, for example, meets regularly with AvMed, making sure the company is aware of potential regulatory changes and working with its management to determine how the changes might affect operations going forward. “We focus on being proactive, rather than reactive,” she says. “You have to understand how they conduct their business. You have to dig deep into their business operations and to determine where they want to be three years out. If there’s a proposed change in a state statute, you want to be sure they’re aware of it, explain how it will affect them and then ask, ‘What will have to change to comply with this?’” Shareholder R. Terry Rigsby focuses on affiliate Haven Hospice. In recent years, Rigsby has been part of a Haven Hospice team that successfully applied for and secured regulatory approvals for new freestanding in-patient hospice facilities in the Florida cities of Palatka, Lake City and Chiefland; and the expansion of a hospice facility in Gainesville, Fla. To establish a freestanding hospice facility, the health care provider must first obtain state approval through Florida’s Certificate of Need (CON) program. Rigsby assisted in the preparation of each application—which outlines the strategy behind the project and the regulations affecting each facility—and helped guide Haven Hospice through the state review process. “These applications are typically 100 pages or more, so it’s no small matter,” Rigsby explains. “No other in-patient hospice facilities existed in these counties, so there was definitely a need. But you still have to provide proof that the project will be cost-efficient for patients and that the facility will fulfill the need for this type of community based service. You also have to demonstrate that the cost of the facility is itself reasonable and that the project design will meet all applicable building codes.” “Terry was instrumental in securing those licenses and executing our expansion strategy,” Gallagher says. “Expansion projects like these are important because they help strengthen Haven Hospice’s brand in the state’s rural markets. They also demonstrate our ongoing commitment to the communities we value and serve.” *Continued Growth*

With SantaFe HealthCare affiliates fast becoming major players in Florida’s health care services space, Carlton Fields’ role as the company’s regulatory compliance watchdog increases exponentially. Still, Harbison says, the parameters of the relationship have remained constant since 2001. “During the 2001 legislative session, I leaned pretty heavily on Steve deMontmollin,” Harbison says. “We talked every day, and frankly, we still talk nearly every day. My job was—and still is—to keep an eye on the political side of the business. But if I have to meet with a legislator or legislative committee and quantify how a proposed piece of legislation will impact the company, Steve’s always available, either prior to the meeting or at the meeting.” “I had admired the attorneys at Carlton Fields for several years before bringing them on board,” deMontmollin says. “Sure, they had insurance and health care lawyers, but they also had a non-legal staff of consultants with experience working with—and sometimes for—regulators. Those were the skill sets we needed.”

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