

# **Health Care**

### Overview

Carlton Fields represents the full range of health care industry participants. On behalf of industry-leading clients across the country, we provide comprehensive legal services related to health care entities. Our scope of services include compliance, administrative, regulatory, transactions, and litigation.

#### Representative Clients

- Hospitals and health systems
- Health care clinics
- Adult care facilities
- Hospices
- Ambulatory surgery centers
- Physicians, physician groups, and other allied health professionals
- Oncology Centers
- Freestanding cardiac catheterization laboratories
- Mental health centers
- Addiction treatment centers
- Pharmaceutical and medical device manufacturers
- Universities
- Medical and hospital associations
- Health insurance companies

### Experience

#### Hospitals

- Drafted contract and general conditions for major reconstruction and additions in Miami, Florida.
- Project construction counsel to owner for \$60 million renovation and new construction in Roanoke, Virginia. Follow-up work on design-build "replication" of successful operating wing.
- Counsel to owner involved in contract formation, troubleshooting, and closeout in Christiansburg,
   Virginia.
- Counsel to owner on new construction and renovations in Washington, D.C. Drafting of standard construction and architectural contracts for multiple projects.
- Counsel to owner for new health care facility in Palm Beach County, Florida.
- Advised owner on contract administration legal issues, project closeout issues, and issues
  involving defective services and construction in Rockville, Maryland. Represented owner in
  successful arbitration proceedings.
- For general contractor, involved with pre-construction review, contract administration, legal issues, and closeout in Miami.
- Project construction counsel for \$70 million replacement facility in Fredericksburg, Virginia.
- Defended claim by subcontractor against general contractor in Augusta, Georgia.

#### Litigation

- Represented health care providers throughout Florida trial and appellate courts in more than 450 cases related to Amendment 7 issues, including providers' confidential peer review, credentialing, quality, and risk management.
- Obtained reversal of trial court order certifying class action against hospital challenging its billing and collections practices.
- Represented hospital in litigation and appellate proceedings resulting in decision that Florida hospitals and ambulatory surgery centers and their governing bodies are immune from injunctive relief and liability for claims that arise out of the appointment or reappointment of members of the medical staff, absent a properly pleaded allegation of intentional fraud.
- Represented hospitals in internal peer review proceedings and resulting litigation, which included successfully representing hospital in litigation and appellate proceedings in lawsuit brought by physicians alleging racial discrimination in medical staff appointment process.

 Represented hospitals in medical malpractice lawsuits, including a defense verdict in a threeweek jury trial of a \$50 million medical malpractice claim arising out of paraplegia following spinal surgery.

#### Regulatory/Transactional

- Represented hospital-based ambulatory surgery centers in a roll-up with a public company.
- Provided legal advice and counseling regarding formation of a hospital network to better compete given health care reform.
- Representing two public hospitals in possible long-term lease.
- Represented health care providers in investigations by the U.S. Department of Health and Human Services Office for Civil Rights related to HIPAA and patient privacy complaints brought by former patients and other consumers.
- Assisted hospital with purchase of real estate and expansion of health care facilities.
- Counseled hospitals on possible joint venture to expand provision of critical services.

### Insights

05.16.2024

4 Tips for Health Tech Apps After the FTC's Revised Breach Notification Rule

04.26.2024

HHS Announces Final Rule on Reproductive Health Care Privacy

04.25.2024

HHS Warns Health Care Sector of Al-Driven Phishing, Social Engineering Attacks on IT Help Desks

03.12.2024

Change Healthcare Cyberattack Emphasizes Importance of Cybersecurity Readiness; Considerations for Hardening Your Cybersecurity Program 07.06.2023

Top 10 First Amendment Cases of the 2022-2023 Supreme Court Term

05.24.2023

It's 3 AM: Do You Know What Your Website Is Doing? Tips for Reducing Regulatory and Litigation Risk Stemming From Website Technologies

06.30.2022

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04.23.2022

Seeking Clarity on Medical Privacy in Fla. Class Actions

Law360

03.21.2022

DOJ's First Cyber-Fraud Settlement Places Emphasis on Cybersecurity Shortfalls

02.15.2022

The Health Data Use and Privacy Commission Act: Is HIPAA Getting a Facelift and Expanding Its Reach?

01.15.2022

The Status of Vaccination Mandate Laws: What Is Being Enforced?

11.05.2021

Health Care Worker Vaccine Mandates: New Strings Attached for Federal Funds

10.18.2021

FOIR Releases Guidance on New Disclosure Requirements for Health Insurers, MCOs

10.14.2021

COVID-19 Accommodation Trends Relating to Vaccination and Remote Work

#### 09.16.2021

The Three R's of LTC Insurance and Wellness: Regulation, Rebates, and RBOs

08.18.2021

Into the Future: Modern Partnerships in Health Care Construction Delivery

04.19.2021

Health Care Price Transparency: CMS Says No Hiding the Ball Containing Pricing Information

04.01.2021

Gov. DeSantis Signs COVID-19 Business Liability Protection Bill Into Law

02.25.2021

Department of Labor Imposes Additional Requirement on Employer-Provided Health Services

12.29.2020

Health Care Providers Are Under Attack. Are You Ready for 2021?

10.21.2020

Pennsylvania Court Sets Out New Work Product Privilege Considerations for Medical Providers' PSQIA Information

09.29.2020

Tips for Fine-Tuning Workplace Vaccination Policies During Pandemic

09.03.2020

Genetic and COVID-19 Testing Companies Set To Be Regulated in California

06.16.2020

HIPAA Compliance for Work-From-Home or Telehealth Programs: Five Frequently Overlooked Considerations

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When Referrals Are Felonies: Health Care Providers Should Review Their Referral Practices to Avoid the DOJ's Wrath

05.13.2020

10 Privacy Recommendations for Health App Developers From the AMA's Latest Privacy Principles

05.04.2020

Five Steps to Prepare for Telehealth Data Breach Litigation

04.30.2020

10 Steps for Responding to a Telehealth Data Breach

04.27.2020

HHS Announces Additional Allocations Under the CARES Act Provider Relief Fund

04.24.2020

Reducing Hospital Regulatory Burdens Through Bankruptcy Sales

04.22.2020

Six Steps to Protect Against Increased Telehealth Cybersecurity Dangers

04.17.2020

\$30 Billion in Provider Relief Delivered Under the CARES Act

03.31.2020

CARES Act Impact on Health Care

03.31.2020

CMS Issues Blanket Waivers From the Stark Law

#### 03.30.2020

Forewarned Is Forearmed: Why Companies Need to Review Their COBRA Notices to Avoid Growing Class Action Trend

03.21.2020

Florida Restricts Medically Unnecessary, Non-Urgent, or Non-Emergency Procedure or Surgery

03.19.2020

Cybersecurity Considerations for Providers Considering Telehealth During COVID-19's State of Emergency

03.18.2020

Telehealth Benefits for Medicare Beneficiaries During COVID-19 Outbreak

02.06.2020

Life Insurance That Benefits the Living

01.17.2020

The Latest "Hipster Antitrust" Battleground – Vertical Merger Enforcement

11.15.2019

When Google Meets HIPAA: Some Privacy and Regulatory Issues as Silicon Valley Enters the Health Care Space

09.11.2019

US v. AseraCare: Eleventh Circuit Holds That Contradictory Clinical Judgments Alone Cannot Trigger FCA Liability

09.10.2019

Applying the CCPA to Health Care: The HIPAA Exemption, Exercise Apps, and Marketing Data

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CBD Health Claims Spur FDA Warning & Product Seizure Threats

Cannabis Industry Journal

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Missouri Appeals Court Rules That Insurer Must Pay Double Policy Limits in Medical Malpractice Claim

04.01.2019

Caps Off to You: DOL Proposes Raising Salary Cap

03.20.2019

Be Prepared for the Next Wave of Biometric Data Laws: Five Tips for Businesses

02.25.2019

Court Finds No Coverage for \$42 Million False Claims Act Suit Due To Late Reporting

02.15.2019

2018 Was a Record Year in HIPAA Enforcement

01.30.2019

Qualified Opportunity Zones vs. 1031

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Seizing the Opportunity with Qualified Opportunity Zones

12.18.2018

How State and Federal Laws Are Addressing the Use of Direct-to-Consumer Genetic Testing by Insurance Companies

12.01.2018

The Health Law Partnership

Georgia Child Protection and Advocacy Law Section Newsletter (Winter 2018)

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Three Takeaways from the DOL's New Labor Condition Application Form

08.27.2018

Emergency Doctors Sue Anthem in Federal Court for Restrictive Emergency Room Policy The Florida Bar Health Law Section Updates

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Good News for Federal Contractors With Affordable Care Act Concerns

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Supreme Court Denies Insurer's Petition to Review Standing in Data Breach Class Actions

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A Primer on Precision Medicine: The Legal and Ethical Considerations Faced by Modern Medicine's New Frontier

Connections Magazine

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A Game Plan for Employers Facing Possible ACA Penalties

12.01.2017

CMS Innovation Center Requests Stakeholder Input

12.01.2017

The Aftermath of the Hurricane: Emergency Preparedness Rules

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CMS Cancels Two Bundled Payment Models & Announces More Voluntary Bundles

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CMS Proposes Next Generation Sequencing Coverage for Medicare Beneficiaries with Advanced Cancer

11.21.2017

Fall Data Breach Roundup and 2018 Preview: Supreme Court, OPM, Equifax and More!

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CMS Proposes Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Changes for 2018

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CMS Releases 2014 Health Care Spending Data by State

11.07.2017

Humana Bundles Up; Files Suit to Recover Hundreds of Millions in Risk Corridor Payments From Uncle Sam

10.24.2017

Executive Orders May Be Asking Too Much of Regulators

10.06.2017

A Conversation on CMS' Emergency Preparedness Compliance for Healthcare Providers

08.24.2017

Kansas Judge Rejects Discovery From Putative Class Members

08.04.2017

Are DC Federal Courts the Next Hotbed for Data Breach Class Actions?

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Class Action and Regulatory Settlements Reflect the Rising Cost of Data Breaches

07.05.2017

New York DFS Requests Information on Use of External Consumer Data and Information Sources in Life Insurance Underwriting

04.05.2017

Class Notice Online Works Just Fine

12.30.2016

The New "Price" of U.S. Health Care: The Future of Value-based Reimbursement Under Presidentelect Trump and Tom Price

12.15.2016

The Potential Impact Of a Trump Presidency on Employers (Webinar)

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Whistleblowers on Campus: DOJ Adds Research Universities to its False Claims Act Focus

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The MACRA Final Rule: 10 Things You Need to Know

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An Expert Perspective: A CMS Conversation on MACRA (Webinar)

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The Potential Impact Of a Trump Presidency on Employers

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Offering Ridesharing Services to Patients: Uber Risky?

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NAIC Long-Term Care Innovation Subgroup Public Hearing

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MACRA: Top 10 FAQs

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4 Key Requirements of CMS' New Emergency Preparedness Rule

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A Look At Manufacturer Liability For The Internet Of Things

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Preemption and Other Defenses to Claims by Study Subjects

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NOTICE Act Scheduled to Take Effect This Fall

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Medicare Advantage Organizations May Sue For Double Damages Under MSP Act

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Companies That Collect Sensitive Consumer Data Should Note the FTC's LabMD Ruling

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CMS Extends and Expands Freezes on New Home Health Agencies in Four States

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Accountable Care Organizations: Have They Already Come and Gone?

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No More Surprises: Florida Ends Certain Medical Balance Billing

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Facebook and HIPAA: Strange Bedfellows

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Hospital/Physician Leases Compliance Checklist

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Two-Midnight Rule Update

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Another One Bites the Dust: Maryland Federal District Court Dismisses Putative Data Breach Class Action for Lack of Standing 06.20.2016

New Patient Transparency Requirements for Hospitals and ASCs

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2016 Florida Legislative Post-Session Report

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How New Fla. Health Care Laws May Create More Confusion

04.26.2016

False Claims Act Liability Based on Implied Certification

04.26.2016

2016 Stark Law Updates

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The HIPAA Audits are Coming, The HIPAA Audits are Coming!

03.22.2016

2016 Carlton Fields Class Action Survey Reveals Important Trends in Class Action Management

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The Older Floridians Handbook

01.28.2016

Implications Of Internal Data Theft At Hospitals

12.23.2015

Record Mega-Settlements May Attract More Whistleblowers

12.23.2015

Could Your Medical Device Be a Hacker's Gateway into a Hospital Network?

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Avoiding the Bull's-Eye

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Solicitors Argue to U.S. Supreme Court That Vermont Health Care Reporting Law Is Not Preempted By ERISA

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King v. Burwell & Beyond: ACA Litigation Continues

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Market Allocation = Antitrust Consequences

08.05.2015

Kane v. Healthfirst and the 60-day Repayment Rule

07.30.2015

U.S. Attorney Predicts \$600 Million in Recoveries for Health Care Fraud in Central Florida Over Next Two Years

06.25.2015

King v. Burwell: No "Death Spirals"

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A New Era of HIPAA Enforcement

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Telemedicine: Hitting a Few Speed Bumps

06.15.2015

Providers Await Result on Affordable Care Act Challenge

05.15.2015

The Efficient Market Theory—§ 10(b)'s Double-Edged Sword

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Healthcare Fraud Initiatives in 2015

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King v. Burwell: Setting the Tone for Health Care Politics

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State Law Claims Based on HIPAA Guideline Violations Are Not Preempted by HIPAA

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Meet the ACA's Employer Mandate

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Is Your Company Ready to Comply with Encryption of Individually Identifiable Health Information?

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Cyber Risk as a Regulatory Issue: Tales of Encryption

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Georgia Office of Insurance Issues Escrow Requirement Reminder to Continuing Care Communities

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Health Care Law: Chilled To The Marrow - The Legal Ramifications Of Remuneration Of Stem Cell Donors

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A New Year, New Obligations for Employers

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Your New Year's Resolutions Should Include Affordable Care Act Compliance

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Protections Governing Theft and Publication of Medical Records

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HIPAA: Deadlines Pass and Definitions Change

11.24.2014

Another Lawsuit Adds to Uncertainty About ACA

09.16.2014

Post-Hobby Lobby Questions Remain About the Scope of Corporate Religious Freedom

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Circuit Courts Provide Preview of Coming ACA Confrontations

09.01.2014

End-of-Life Decision Making for Unborn and Newborn Infants

07.08.2014

The ACA's Bumpy Ride

07.08.2014

Congress Sends Mixed Messages to Health Care Providers

06.25.2014

Florida Governor Signs Florida Information Protection Act

06.24.2014

Data Breach Class Action Not Barred by Lack of Individual Injury in West Virginia

#### 06.12.2014

2014 Florida Post-Session Report Released

05.08.2014

Florida Appellate Court Embraces Daubert Standard and Provides First In-Depth Analysis Under New Law

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Considerations for Insurers in the Aftermath of the MetLife Consent Decree

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Expect Focus on Antitrust Issues in the Health Care Industry

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Assisted Living Facility Reform Likely in 2014

01.03.2014

The Affordable Care Act Comes of Age

12.26.2013

CMS and OIG Release Final Rules Extending Stark Law Exception and Anti-Kickback Statute Safe Harbor for Donations of Electronic Health Records Technology

12.20.2013

Advance Preparation for Medicare Revalidation Requests: Good Decision for the Bottom Line

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Patient Privacy or Public Protection? Government Attempts to Address Mental Health Issues While Protecting Patient Communications

10.30.2013

HFMA Releases Provider-Patient Financial Communications Best Practices

#### 10.28.2013

A Federal Court Holds HIPAA Preempts a Florida Medical Malpractice Pre-suit Requirement

10.28.2013

Florida's Second District Court of Appeal Issues Important Decision on Inadmissibility of Physician Board Certification Exam Results

10.02.2013

Data Collection Under the Sunshine Act

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8 Tips to Help Health Care Providers Minimize Possible Wage Liability for Student Interns

07.11.2013

Affordable Care Act's Reporting Requirements and Employer Mandate Postponed Until 2015; New IRS Guidance Released

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Florida Medicaid Liens after Wos

07.01.2013

Florida Legislature Passes Medical Liability Tort Reforms in Response to Hasan V. Garvar State Supreme Court Decision

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Medical Malpractice Update - Spring 2013

05.28.2013

Healthcare Privacy Issues under the Omnibus Final Rule

#### 04.24.2013

Business Associates and HIPAA Compliance

04.09.2013

Cyber Intelligence Sharing and Protection Act Set for Markup Session

01.24.2013

U.S. Department of Health and Human Services Publishes Final HIPAA Rule Alert

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Electronic Prescribing and Electronic Health Records Exceptions to The Stark Law

01.07.2013

Qui Tam Case Study: Dismissal Based on Whistleblower's Lack of Standing

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Verizon's 2012 Data Breach Investigations Report Provides Latest Findings in Information Security

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Verizon Publishes Findings on Data Breaches in the Health Care Industry

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Florida Supreme Court Declares Hospital Lien Law Unconstitutional Under Florida Constitution's Prohibitions Concerning Special Laws, But Upholds Local Ordinance With Same Effect As Law

02.09.2012

Florida Hospital Commission Final Report Brings Mixed News for Public Hospital Districts

12.30.2011

Schedule H Revisited After Health Care Reform

12.29.2011

Hospitals and the Non-Delegable Duty of Care

#### 12.29.2011

Claiming NICA Exclusivity: The Florida Supreme Court Clarifies The Law Regarding Notice By Multiple Providers

12.29.2011

Presuit Nuts 'n Bolts

11.09.2011

Court Limits Records Ordered Produced Under "Patient's Right to Know" Amendment

09.09.2011

Liability Insurers Will Face Enhanced Exposure From New Medicare Requirements in January 2012

07.08.2011

Florida Supreme Court Decision Regarding NICA

05.16.2011

Capitol Report 2011: Health Care (Medicaid Reform)

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Capitol Report 2011: Continuing Care Retirement Communities

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Court Rules that Documents Ordered Produced Under "Patient's Right to Know" Amendment ("Amendment 7") are not Admissible at Trial

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Court Confirms Scope Of Statutory Immunity Against Suits Related To Appointment Of Medical Staff Members

01.14.2011

Patient's Right to Visitation

01.07.2011

Center for Medicare and Medicaid Innovation

01.07.2011

The Clock is Ticking On GME Funding Applications

12.09.2010

Healthcare Interview with Carlton Fields lawyers James Kennedy and Linda Fleming

10.04.2010

Sales Reps in the OR: The Hunt for Non-Preempted Claims

03.31.2010

New Decision Addressing Punitive Damages Award for Excessiveness Under Federal Law

03.08.2010

New Decision on Statutory Limitations on Noneconomic Damages in Medical Negligence Actions

01.18.2010

Must Unexpected Bill from '05 be Paid

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A Shot in the Arm: "Procedural Preemption" of Vaccine Claims

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New Decision on Medical Peer Review Immunity

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Can Medical Records Be Accessed On Computer?

04.10.2009

HITECH Act: Business Associates Subject to Certain Provisions of HIPAA Privacy and Security Rules

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HITECH Act: New Security Breach Notification Requirements

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HITECH Act: Significant Changes to HIPAA Privacy Rule and Patient Privacy Rights

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Using Technology to Help Win the Trial and Appeal

06.18.2008

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Counsel to Counsel Best Practices Lost or Stolen Data: Minimizing Fallout

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American Health Lawyers Association (AHLA) Hospital and Health Systems Law Institute: Hot Topics in HIPAA

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Working in Harmony

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AIDS: Implications for Pregnancy

11.09.2005

Significant Appellate Decision - Staff Privileges and Hospital Bylaws

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Can the Antitrust Enforcers Live Up to their Press Billings?

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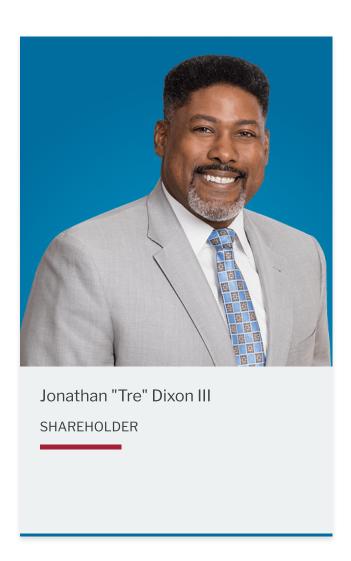
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Implications of Internal Data Theft at Hospitals: Tips for Preventing and Handling Data Breaches by

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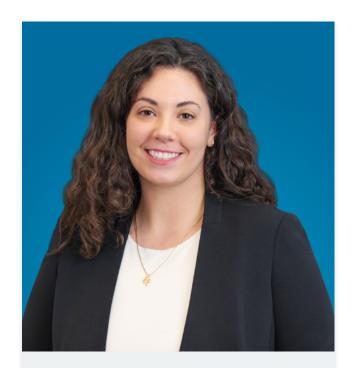
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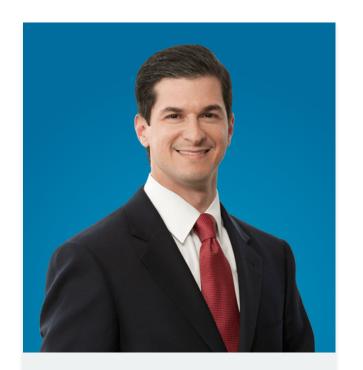
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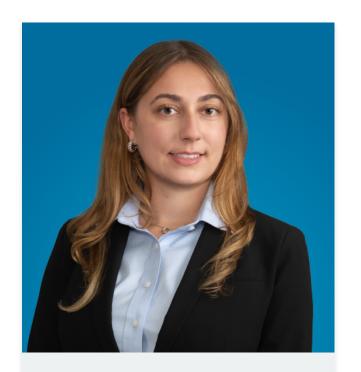
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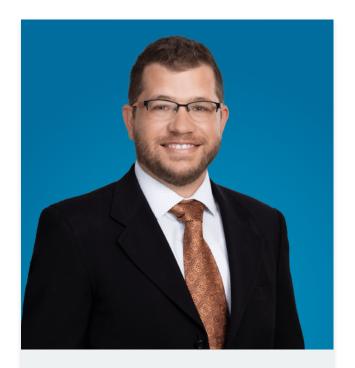
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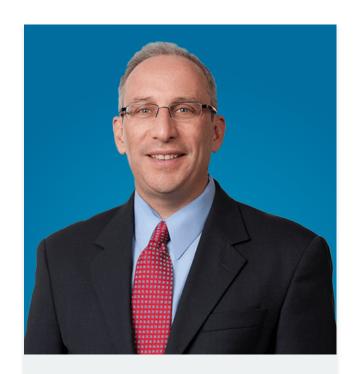
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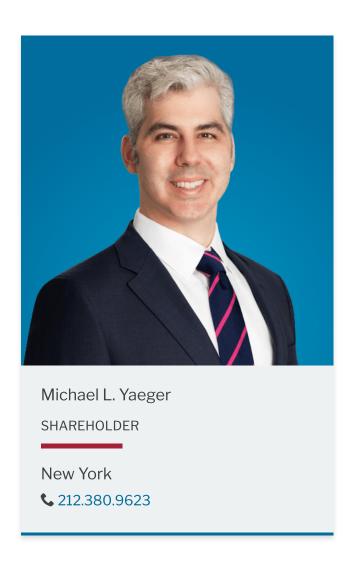
James R. Wiley
OF COUNSEL

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Peter J. Winders
SHAREHOLDER AND GENERAL COUNSEL

Tampa



## Related Capabilities

## **Practices**

- Banking, Commercial, and Consumer Finance
- Business Transactions
- Corporate Law and Governance
- Development
- Cybersecurity and Privacy
- Distressed Health Care
- False Claims Act, Qui Tam, and Whistleblower Defense
- Government Law & Consulting

## Industries

- Banking, Commercial, and Consumer Finance
- Technology
- Real Estate

- Intellectual Property
- Labor & Employment
- Life, Annuity, and Retirement Litigation
- Litigation and Trials
- Mergers and Acquisitions
- Nonprofit Organizations
- Pharmaceuticals and Medical Devices
- Public-Private Partnerships
- Representations and Warranty Insurance
- Technology
- Government Affairs and Lobbying
- Mass Tort and Product Liability
- White Collar Crime & Government Investigations
- Intellectual Property Litigation
- Intellectual Property Protection & Portfolio Management
- Technology & Intellectual Property Transactions
- Estates, Trusts and Probate
- Private Equity and Venture Capital
- Cyber Insurance Coverage Disputes
- Reinsurance
- International: Mexico
- Investment and Ownership
- Lending
- Appellate & Trial Support
- Real Estate
- International Privacy Compliance
- Wage and Hour
- Immigration Planning and Compliance
- Employee Benefits, Compensation & ERISA
- Discrimination
- Antitrust and Trade Regulation
- Qualified Opportunity Zone Task Force

- Blockchain and Digital Currency
- AdTech
- Internal Investigations
- Government Contracts
- Education