



## Health Care Litigation

### Industry Contacts

Jolie N. Havens  
Suzanne J. Scrutton

### Attorneys

Robin L. Canowitz  
J. Liam Gruz  
Nikkia Knudsen  
Peter A. Lusenhop  
Theodore P. Mattis  
Michael P. Oliverio  
Eric W. Richardson  
Evelyn Lundberg Stratton  
Victor A. Walton, Jr.

Not all health care providers are alike, and neither are health care litigators. Our health care litigators understand the unique business and regulatory issues that affect our individual health care clients and provide carefully tailored advice and assistance.

## Who We Represent

Our health care clients include for-profit and non-profit providers, ranging from individual physicians and advance practice nurses to physician groups, ambulatory surgical centers, diagnostic imaging centers, home health agencies, intermediate and long term care entities, nursing homes, skilled nursing facilities, hospice providers, hospitals, hospital systems and integrated health delivery systems. We also represent academic medical centers, health care trade associations, pharmaceutical companies, insurers and employer health plans.

## Our Work

We routinely defend our clients' interests in court and before state and federal regulators on matters involving regulatory compliance challenges, enrollment, accreditation, licensure disputes, Certificate of Need (CON) applications and objections, professional disciplinary actions, reimbursement challenges (such as Medicare and Medicaid overpayment appeals) and fraud and abuse cases, including government-initiated actions under the federal Stark Physician Self-Referral Laws, the Anti-Kickback Statute and the qui tam provisions of the False Claims Act. We also represent our health care clients in antitrust cases, complex commercial disputes, cases involving information technology and privacy issues, and a broad range of other matters. We also recognize that, in some instances, the most successful resolution of health care disputes can, and should, occur without the expense and inconvenience of litigation. Our lawyers are skilled in achieving such resolutions.

### Health Care Antitrust Litigation

Our nationally recognized antitrust litigation practice represents corporations and individuals in antitrust actions throughout the United States. We have addressed mergers and acquisitions, market allocations, group boycott and price-fixing conspiracy claims and claims under the Robinson-Patman Act. We have represented pharmaceutical manufacturers in antitrust litigation and have defended criminal antitrust indictments and investigations and civil antitrust claims. Our participation in all aspects of antitrust litigation — especially the representation of both antitrust plaintiffs and defendants — affords us an important advantage in providing our clients with litigation tactics and counseling not available from other law firms. [Learn more here.](#)

### Health Care False Claims Act Actions / Civil and Criminal Investigations

Government agencies have aggressively escalated their investigations and prosecutions of health care entities. Increasingly, the vehicle of choice for pursuing claims against health care providers is the federal False Claims Act (FCA). The FCA allows cases to be brought by “whistle-blowers” suing on behalf of the government against those alleged to have submitted false claims for payment to an officer of the United States.

Our firm has wide-ranging experience in litigating False Claims Act cases, including successfully defending our clients at trial. Our FCA experience includes obtaining dismissal of a case alleging that a hospital overcharged Medicare and Medicaid on various claims. We also have assisted clients in conducting internal investigations, advised corporations on the advantages and disadvantages of voluntary disclosure of overpayments or other compliance issues, and worked to convince the Department of Justice not to intervene in civil fraud cases brought by qui tam relators. In addition, we counsel clients on the creation of compliance programs designed to protect against fraud and abuse charges.

### Medical Malpractice

Our trial lawyers defend medical malpractice lawsuits in courts throughout Ohio. We regularly represent hospitals and individual physicians in jury trials addressing complex medical issues and treatment, including cutting edge medical issues involving genetics and medical technology.

In addition, our lawyers advise hospitals, medical groups and medical staffs concerning issues of risk management, loss prevention, reporting under the federal National Practitioner Databank, *ad hoc* hearing presentations, reviewing staff privileges and the requirements of the Health Care Quality Improvement Act. We also have counseled hospital and medical group Quality Assurance committees in the collection, use and presentation of quality assurance statistical information.

### Privacy and Security of Health Information, HIPAA Compliance and HIT

Health information security and privacy compliance influences key business decisions about patient care, quality improvement and information technology. Our health care attorneys are well versed in the rapidly changing fields of health information exchanges, electronic and personal health records, complex data sharing arrangements, paper and electronic data privacy and security, health information management, data breach response and state and federal discovery rules for Electronically Stored Information (ESI). Our

lawyers routinely instruct and counsel health care providers on preemption and the requirements of state and federal privacy laws, including the HIPAA Privacy and Security Rules, state breach notification requirements, 42 C.F.R Part 2, and the production of individually identifiable health information in response to discovery requests, court orders, law enforcement investigations, public health concerns and regulators responsible for health care oversight.

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 the Office of Civil Rights (OCR), the Federal Trade Commission (FTC) and various states attorneys general. [Learn more here.](#)

### Provider and Patient Rights / Medicare / Medicaid

Vorys is a recognized leader in the arena of provider rights under Medicaid. Increasingly, the courts are clamping down on the rights of providers to compel state agencies to abide by federal Medicaid law. We have extensive experience with the interplay between federal, state and local administration of the Medicaid program, and have successfully litigated these issues on behalf of providers throughout Ohio.

In appropriate cases, our health care litigators also represent consumers who are seeking to receive health care services from their provider of choice. Often, these controversies arise with respect to services provided under state and federal assistance programs, including Medicaid and Medicare. For example, our firm has been a leading voice in advocating for the rights of Medicaid-eligible consumers of behavioral health services. Our trial lawyers have appeared before county boards, the Social Security Administration, state and federal agencies and in state and federal courts to champion the rights of consumers to receive appropriate behavioral health services.

### Regulatory Compliance Challenges / Licensure and Certification

We offer our health care clients representation by lawyers who understand the unique regulatory environment in which the specific provider operates. Our lawyers include former Assistant Attorneys General and General Counsel of regulating state and county agencies. Through this deep experience in health care regulation, our lawyers have gained unique insights into the regulator's perspective – an invaluable asset when defending critical regulatory compliance matters or negotiating with regulating agencies.

We have put our experience to work on mission-critical regulatory challenges, including those involving licensure, accreditation (private and state), certification and Certificate of Need (CON), brought by state and federal agencies, including the Centers for Medicare and Medicaid Services (CMS), the Ohio Department of Medicaid, the Ohio Department of Health (ODH), the Ohio Department of Job and Family Services (ODJFS), the Ohio Department of Developmental Disabilities (DODD) and the Ohio Department of Mental Health and Addiction Services. We have done so for individual providers, physicians and non-physician practitioners, physician groups, hospitals, academic medical centers, behavioral health care providers, providers of services to individuals with developmental disabilities, intermediate care facilities for the developmentally disabled, nursing homes and long-term care providers, home health agencies, foster care agencies and health care trade associations. We also regularly defend professional disciplinary actions brought by state licensing boards.

### Reimbursement, Contract and Fraud and Abuse

Our lawyers have extensive experience in litigating health care reimbursement, fraud and abuse, and contract cases, across a broad spectrum of payor arrangements and business relationships. Whether the dispute involves enrollment, accreditation, provider agreements, Medicare reimbursement systems (such as IPPS, OPSS, and APCs), Medicaid reimbursement systems, cost reporting, medical records documentation or claims submission and coding issues, Vorys' health care litigators have the knowledge and experience needed to defend our clients' interests.

For example, we regularly represent health care providers on a wide range of complex Medicaid and Medicare audit and compliance disputes, including overpayment appeals and the disclosure and repayment of overpayments discovered through internal investigation. We also have significant experience with claims brought under the federal Stark Physician Self-Referral Laws, and the Anti-Kickback Statute, as well as claims brought under the federal False Claims Act.

In addition, we have significant experience in litigating systemic contract issues between private providers, governmental entities and public payors. Our firm is also a recognized leader in the field of contracts and reimbursement issues for behavioral health providers (mental health, drug and alcohol, and drug treatment and prevention), developmental disabilities (DD) providers, child welfare agencies and in the field of Medicaid reimbursement and contract litigation. Learn more about compliance in this area.

### News

[News, 8.18.2022](#)

115 Vorys Attorneys Named to the 29th Edition of The Best Lawyers in America® List; 33 Vorys Attorneys Named to Best Lawyers: Ones to Watch in America List

### Speaking Engagements

[Event, 9.13.2022](#)

2022 American Society for Health Care Risk Management Annual Meeting