

AHLA

LONG TERM CARE AND THE LAW

February 25-27, 2013

Hilton Austin • Austin, TX

Program Planning Committee:

Alan E. Schabes, Esq. – Program Chair

David S. Cade, Esq.

Dianne J. De La Mare, Esq.

Kimber L. Latsha, Esq.

Christopher C. Puri, Esq.

In association with:



Plante Moran and Principle Valuation LLC have provided sponsorship in support of this program.

Program Agenda

PROGRAM OBJECTIVES

- » Increase knowledge of the regulatory issues affecting the delivery of care by post acute and long term care providers
- » Learn practical information to increase operational effectiveness of long term care facilities
- » Understand challenges and risks for post acute and long term care providers

Please Note: This year's program includes sessions for Nursing Facility, Assisted Living and Home Health audiences. The Program at a Glance on pages 16-21 indicates for which audience(s) a session is intended: Nursing Facility (NF) attendees; Assisted Living (AL) attendees; and/or Home Health (HH) attendees.

Monday, February 25, 2013

7:45 am–12:45 pm

Assisted Living In-House General Counsel Roundtable, sponsored by NCAL.

To RSVP, contact Katherine Preede at kpreede@ncal.org or sign up on the registration form (Open only to in-house counsel; breakfast will be served at 7:45 am and lunch is also included. Attendance is limited and pre-registration is required)

- » Strengthening Your Case
 - What makes a case more defensible?
 - Documentation issues
 - Common mistakes
- » Liability Issues Surrounding Staffing
 - Low performing employees
 - Retaliation claims
 - Hot issues in employment law
- » Peer-to-peer sharing of current risks and risk management strategies

8:30 am–5:30 pm

Registration and Information

CONCURRENT SESSIONS

9:30–11:30 am

I. Nursing Facility Introductory Session

Annaliese Impink
Todd J. Selby

- » Medicare and Medicaid – how they are different and how they are alike

- » Introduction of the types of providers – long term care, senior housing (independent living and assisted living facilities)
- » In-home care, rehabilitation hospitals and hospice
- » Characteristics of the clients each would serve
- » Reimbursement sources for each type of provider
- » Regulatory and tort issues that may arise for each type of provider
- » Contracting with vendors and other healthcare entities
- » Fraud and abuse
- » Accountable Care Act provisions affecting each type of provider

II. Home Health and Hospice Introductory Session

William A. Dombi

- » What is home care and hospice
- » Who provides home care and hospice
- » What are the standards for qualifying as a provider
- » How is it paid for under Medicare/Medicaid, managed care, commercial insurance and private pay
- » Standards for coverage of homecare and hospice
- » Legal issues involved in business transactions, quality of care, claims payment and fraud and abuse

9:30–11:30 am

Interactive Discussion Groups

Attendance for each discussion group below is limited to 30 people; there is an additional charge of \$40; and pre-registration is required. Please see page 23 to register.

Group 1: Managing Government Subpoena Responses in the E-Discovery World

Brad Berkshire
W. Clay Landa

- » Best practices on how to manage a large-scale government subpoena response, interact with government officials, manage client directed work and expectations, and attorney directed review of documentation
- » The information technology process and a realistic timeline for electronic collection of data that allows managing attorneys to ensure sound, defensible, and repeatable data collection

Program Agenda

- » Reduce actual document review time and costs by creating and performing accurate searches of electronic data for responsive documents
- » Document review technology to allow attorney directed review to proceed in a cost effective yet compliant manner
- » The electronic production sets and formats required by government entities

Group 2: Care at Home: An Evolving Landscape

Pamela S. Kaufmann

- » Key benefits of care at home for both providers and clients
- » Different care at home models
- » California's efforts to pass a care at home law and alternative approaches that have evolved since the Governor vetoed such legislation
- » Care at home experiences in other states

11:30 am–1:00 pm

Lunch on your own

GENERAL SESSION

1:00–1:15 pm

Welcome and Introduction

Kristen B. Rosati, AHLA President-Elect
Alan E. Schabes, Program Chair

1:15–2:00 pm

Keynote Address

James M. Berklan

2:00–3:30 pm

Panel Discussion on ZPICs

CMS Leadership

3:30–4:00 pm

Coffee Break sponsored by Plante Moran and Principle Valuation LLC

CONCURRENT SESSIONS

4:00–5:30 pm Extended Sessions

A. Coordinating Care for Dual Eligibles: Impact of the CMMI Demonstration on Post Acute and Long Term Care Providers

Mark E. Reagan

- » The demonstration and its capitated and managed fee-for-service financial models
- » State proposals and CMS responses
- » What to learn from the executed memoranda of understanding?
- » What will be the impact on post acute and long term care providers?
- » Likely legal challenges

B. Legislative and Regulatory Update for Skilled Nursing Facilities

Jennifer L. Hilliard

Raymond Sierpina

- » Regulatory
 - What lies ahead for mixed legislative and regulatory issues such as DEA nurse-as-agent
 - CMS nursing home program letters and regulatory developments
 - Regulatory matters in other agencies that affect nursing home providers and operations
- » Legislative
 - Three trends that will define the 113th Congress
 - How did we get here? Legislative policies that define our reality
 - Deficit politics and post acute care – A view ahead

C. Case Law Update (not repeated)

Matthew Clark

Susan A. Edwards

- » Medicare and Medicaid reimbursement
- » Survey, certification and enforcement
- » Home health
- » False claims litigation
- » General litigation developments

D. Assisted Living State Legislative and Regulatory Trends (not repeated)

Maribeth Bersani

David A. Kyllö

Karl P. Polzer

- » Litigation trends
- » Recently released national senior living studies, surveys and research and plans for future efforts
- » Federal legislative and regulatory activity that could impact senior living providers and residents

Program Agenda

E. Legislative and Regulatory Update for Home Health and Hospice (not repeated)

William A. Dombi

Deborah A. Randall

- » The Affordable Care Act, the Budget Control Act and their impact on home care and hospice
- » Medicare payment rate changes in 2013
- » Updates on Medicare home health and hospice coverage and documentation requirements
- » Developments in the oversight of home care and hospice under Medicare and Medicaid
- » New regulatory actions under the Fair Labor Standards Act
- » Forecast for future legislative and regulatory changes in 2013 and 2014

5:30–6:30 pm

Networking Reception sponsored by Plante Moran and Principle Valuation LLC

(attendees, speakers, children and registered spouses and guests welcome)

6:30–7:30 pm

Celebrating Diversity and Inclusiveness Reception sponsored by AHLA's Advisory Council on Diversity

(attendees, speakers, children and registered spouses and guests welcome, register on page 23)

Join us for a reception that celebrates diversity in the health law bar and provides an opportunity for members of diverse backgrounds to network with their AHLA colleagues and association leaders.

Tuesday, February 26, 2013

7:00 am–5:45 pm

Registration and Information

7:00–8:30 am

Continental Breakfast sponsored by Plante Moran and Principle Valuation LLC

(attendees, speakers, children and registered spouses and guests welcome)

CONCURRENT SESSIONS

Please note start times for the following sessions

8:00–9:30 am Extended Sessions

A. Coordinating Care for Dual Eligibles: Impact of the CMMI Demonstration on Post Acute and Long Term Care Providers (repeat)

B. Legislative and Regulatory Update for Skilled Nursing Facilities (repeat)

8:30–9:30 am

F. ZPIC / RAC Audits – What You Need to Know (not repeated)

Dolly M. Curley

Brian M. Daucher

- » History, nature of ZPICs / RACs
- » ZPIC / RAC functions, powers
- » Preparing your provider: just culture and a corporate compliance program for success
- » The audit structure (inquiry, review, demand)
- » Use of extrapolation
- » Challenging the findings (steps and strategies)

G. Transform and Reform! Transitioning Long Term Care Providers into Post Acute Care Partners (not repeated)

Elizabeth V. Rust

Lisa Diehl Vandecaveye

- » Implications of cost-shifting among the various health plans, healthcare providers, employers and consumers and the impact of this on long term care providers
- » How capitated payments, bundled payments and other payment streams are evolving to shift providers into insurer roles and the need to mitigate and manage that risk
- » Ways in which institutions will become more collaborative and expand affiliations as they strive to eliminate redundancy
- » Case study review of strategies being utilized to facilitate transitions into the evolving healthcare landscape

Program Agenda

H. On The Clock: 8 Wage and Hour Class Action Claims that Are Challenging the Health Care Industry (not repeated)

Robert J. Tomaso

- » Wage and hour/overtime lawsuits have been on the rise for several years (increasing by 28% in 2011 alone), potential damages can be very large
- » Long term care facilities have seen a disproportionately high number of claims made against them. Creative plaintiff employment lawyers are joining individual facilities and their management companies as defendants in efforts to increase damages
- » Possible wage and hour traps facing long term care facilities as well as ways to protect your facilities against these claims

9:45-10:45 am

J. Home Health and Hospice Transactions: Traps for the Unwary (not repeated)

Denise K. Harris

Paul A. Lang

- » Current market conditions impacting home health and hospice transactions
- » Legal issues that are unique to and/or emphasized in home health and hospice transactions
- » Licensure, certification, and Certificate of Need considerations
- » Due diligence items that are unique to and/or emphasized in home health and hospice transactions
- » Key considerations

K. Overview of Long Term Care Hospitals and Inpatient Rehabilitation Facilities and Their Role in the Post Acute Care Continuum (not repeated)

David C. Marshall

Don L. Yoder

Douglas C. Yohe

- » LTCHs and IRFs, including a discussion of the services provided, certification requirements, criteria for admission and how they are reimbursed under Medicare
- » Recent legal and regulatory changes affecting LTCHs and IRFs, and how those changes impact operations
- » Major issues facing the LTCH and IRF providers, including but not limited to impact of the 25 day length of stay and the “25% rule” requirements

for LTCH reimbursement, development of LTCH Quality Measures by CMS, the impact on the end of the moratorium for LTCHs, the 75/25 rule for IRFs, transactions governing both types of providers, and corporate compliance issues facing both types of providers

- » Relationships between LTCHs, IRFs and SNFs in the post acute marketplace, including relationships with ACOs and managed care organizations (including Managed Medicare) including barriers that exist today and requirements for waivers to pursue these

L. Ethical Advice in the Legal and Regulatory World of Caregivers and Providers

Kathleen A. Hessler

Susan M. Voigt

- » Difference between a legal analysis and an ethical review process, and explore the ethical process
- » Care and treatment scenarios involving financial and care issues
- » Legal advice and risk management with an emphasis on patient choice
- » Varied solutions to difficult ethical issues in a case study

M. Providing Resident Centered Care while Avoiding Risks and Liability in Assisted Living

Caroline J. Berdzik

T. Andrew Graham

- » Computer and Wi-Fi access (providing and monitoring access)
- » Cameraphones/smartphones and other technologies and controlling the proliferation of unauthorized images or videos
- » Religious accommodations and preferences and impacts on treatment and medications
- » Smoking policies
- » Alcohol consumption
- » Pets and service animals
- » Sex offenders
- » Consensual relationships between opposite sex and same sex couples
- » Food choices
- » Use of automobiles
- » Dealing with younger residents and their preferences in a traditionally senior environment

Program Agenda

N. How and When to Disclose and Refund Overpayments

Lewis Morris

Darrell D. Zurovec

- » The ACA requirement to report and refund overpayments within 60 days
- » Voluntary self-disclosure protocol
- » Potential advantages and disadvantages of the ACA requirement with the SDP
- » Potential overpayment scenarios

11:00 am–12:00 noon

O. The Long Road to Justice and \$25 Million: The Beechwood Litigation Saga—1999–2012 (not repeated)

Kevin S. Cooman

- » Can you shut down a preeminent skilled nursing facility in 90 days or less?
 - Pre-planning adverse survey outcomes
 - Futile POCs and IDRs
 - Federal termination and state license revocation
 - The vanishing CON
- » Retaliation by regulators: What can you do about it?
 - Retaliation or “mere” regulatory tension?
 - Exploring third party intervention
 - The federal court Section 1983 lawsuit option
- » Opportunities and pitfalls in federal and state administrative adjudications
- » Clicking “send” too soon: E-mails that come back to haunt you
- » Finding and obtaining evidence: FOIA, archives and unlikely sources

P. Fair Housing Compliance in Senior Housing and Assisted Living (not repeated)

Daniel Z. Sternthal

Betty J. Ulmer

- » Basic fair housing rules in the context of daily operational challenges faced by assisted living, independent living and CCRC providers
- » Recent FHA cases impacting senior housing providers
- » Practical tips to help avoid FHA/ADA challenges, and implementing policies and procedures that reduce risk and still meet operational goals
- » Reasonable accommodation policies addressing FHA issues

Q. Insurance Benefits: ACA Employer Obligations

John Asencio

Nancy E. Taylor

- » What was the law designed to do, how coverage will be delivered, overview of changes already put into place
- » How to calculate the number of full-time employees and make determinations regarding the status of current and newly hired, variable hour employees, through the use of a lookback/stability period
- » New reporting requirements, what it means to offer affordable, minimum value coverage and what the possible penalties are if employers do not comply
- » How to make a decision about offering or not offering coverage to employees, how to understand if a business is impacted by the new requirements and how to ensure compliance with the law when things change or questions arise

R. Home Care Enforcement and Intermediate Sanctions: Preparing for a New Enforcement Reality after the 2013 Home Health Final Rule

Robert W. Markette, Jr.

- » Current enforcement environment related to home health
- » Specific new sanctioning authority provided for in the 2013 Home Health PPS Rule
- » Provider experiences with intermediate sanctions in other contexts
- » How this new sanctioning authority will impact the survey process for home health agencies
- » What agencies should be doing to prepare – common survey deficiency issues
- » How the new IDR process may be a helpful tool to agencies

S. Understanding the Troubled Facilities’ Alphabet: SFF, SIA, DAB, CIA, PI and Transparency

Janet K. Feldkamp

Barbara L. Miltenberger

Vicki L. Robinson

- » Use of System Improvement Agreements to avoid termination
- » What is on the horizon for Special Focus Facilities?

Program Agenda

- » Transparency issues and program integrity related to troubled facilities
- » Ways to avoid getting into the quagmire

12:00 noon–1:30 pm

Lunch on your own or attend the Long Term Care, Senior Housing, In-Home Care and Rehabilitation Practice Group Luncheon sponsored by Simone Consultants, LLC

(additional fee; limited attendance; pre-registration required; see page 23)

An Insider's View of the Landmark Jimmo v. Sebelius Litigation and Settlement

Jennifer L. Hilliard (Moderator)
Public Policy Attorney, LeadingAge,
Washington, DC

Toby S. Edelman

*Senior Policy Attorney, Center for Medicare Advocacy,
Washington, DC*

With preliminary approval granted by a federal trial court in Vermont, the landmark Medicare coverage settlement in the case of Jimmo v. Sebelius promises to increase coverage for tens of thousands of Medicare beneficiaries with chronic conditions. Such beneficiaries previously were denied coverage for skilled nursing, home health and therapy services under the so-called "Improvement Standard," an interpretation of Medicare law that would deny benefits when the beneficiary's condition was not expected to improve. Join counsel for the plaintiffs, Toby S. Edelman, for a wide ranging discussion of the Jimmo case and its implications for the future, as well as the Center for Medicare Advocacy's ongoing litigation concerning the treatment of hospital observation stays under Medicare.

CONCURRENT SESSIONS

1:45–2:45 pm

T. Assisted Living Lease and Management Contracts: Considerations for the Drafter
(not repeated)

Thomas J. Kapusta
Brian R. Purtell

- » Assisted living lease and management arrangements and the elements of such agreements that require specific attention given the nature of the assisted living business

- » Common situations that can arise in these arrangements that due to the licensing requirements or operational expectations that present potential pitfalls if standard business clauses are utilized
- » Opportunities for the inclusion of some monitoring clauses that will not burden the operator/provider while still providing the landlord some oversight over their investment
- » Strategies to consider in agreement development to address worst case scenarios in order to avoid or minimize damage if an arrangement fails

U. Structuring a Hospital-to-Home Transition Program (not repeated)

Paul A. Gordon

- » Long term care providers are ideal candidates to manage re-hospitalization reduction programs, which can help them forge critical relationships with other stakeholders in the new world of accountable care
- » Review the structure of a CMS-funded hospital-to-home transition program, managed by a long-term care provider, designed to reduce re-hospitalizations for patients at risk of readmission
- » Roles and division of responsibilities of hospitals, social services and home care providers, meal and transportation vendors, the area agency on aging, and other potential participants will be examined
- » Sample contracts and key contract provisions

V. Legal Ethics: Identifying and Resolving Legal and Business Conflicts in Integrated Care

David C. Beck

Elyse Aasen

- » Conflicts of interest – the perils of being the "attorney for the deal"
 - Typical fact patterns, including networks, joint ventures (real and virtual), accountable care organizations
 - General principles of conflict rules, and differences between the model rule and specific state bar rules
 - Conflicts when representing an organization
 - When must a lawyer give one client's confidential information to another client
 - Can a conflict be waived in advance
 - Can a waiver be revoked after it is given

Program Agenda

- » Antitrust issues
 - Wait – I thought concerted action was good
- » Fraud and abuse issues
 - Dealing with rules built for a “pre-bundling” era
 - Some OIG perspectives on suspect joint ventures
- » General ethical issues in integrated care

W. Legal Implications of Social Media Use in Aging Services Settings

Michael D. Brent

Daniel E. Burke

E. Frederick Preis, Jr.

- » Discuss, from a multi-disciplinary perspective, the legal issues presented by the use of social media in various long term care settings
- » How use of personal electronic devices and social media can violate federal and state laws governing employment practices, labor rights and medical privacy rights
- » Elements of effective social media policies that maximize the benefits of social media while minimizing the risks to long term care providers and those they serve

R. Home Care Enforcement and Intermediate Sanctions: Preparing for a New Enforcement Reality After the 2013 Home Health Final Rule (repeat)

3:00-4:00 pm

X. Moving the Regulatory Requirements from Nursing Home to Assisted Living

(not repeated)

Kimber L. Latsha

Stephen J. Maag

- » Overview and examples of how state laws and regulations for assisted living vary in how services are provided, especially in areas such as medication management, home health and hospice care and what the trend is nationally
- » Discuss the implications for assisted living providers when states promote a regulatory framework similar to that of nursing homes for assisted living
- » Hear examples from two states which made changes to their regulations and the issues it created for providers in those states

Y. From Penn State to Corporate Board Rooms – Making Compliance Programs Effective

(not repeated)

J. Richard Kiefer

Charles H. Roadman

- » Highlights of the July 12, 2012 report by former FBI Director Louis Freeh, referred to as “The Freeh Report”, to the Board of Trustees of Penn State University on how the Jerry Sandusky scandal happened, and his recommendations for systemic and institutional change to prevent such occurrences in the future
- » Creating systems and decision-making procedures throughout the company, from the Board of Directors to employees providing direct resident care, that establish a proper balance between quality of care and profitability
- » Changing organizational structures to ensure effective reporting of non-compliance to the Board of Directors and senior management of the company
- » Establishing the authority and practice of the Board of Directors, as the governing body of the corporation, to conduct its own independent investigations into quality of care
- » Requiring transparency throughout the company to prevent violations of company policies and procedures from going undetected

Z. Hospital/SNF Collaborations: Can Playing Well with Others Land You in the Principal's Office? (not repeated)

Claire F. Miley

Kirstin B. Sumner

- » Types of collaborations between hospitals and SNFs that are gaining traction in the wake of ACA
- » Industry perspectives on the operational and other business challenges of implementing these models
- » The intersection between the new world of coordinated care and the traditional framework of healthcare fraud and abuse laws
- » Practical tips for structuring hospital/SNF collaborations to accommodate ACA goals while reducing risk of adverse enforcement action under fraud and abuse laws

Program Agenda

AA. Physician Contracting – Legal and Operational Considerations

*James F. Miles
Kelly A. Priegnitz*

- » Preferred structures for contracting and compensation
- » Stark, anti-kickback, and Corporate Practice of Medicine Doctrine considerations and strategies
- » Reimbursement issues
- » Relationship to ACOs and other health care reform initiatives

BB. Government Fraud Concerns in Hospice and Home Health

*Sean R. McKenna
Richard L. Shackelford*

- » Recent enforcement actions/trends
- » Home health areas of enforcement scrutiny
- » Hospice areas of enforcement scrutiny
- » Feedback and impressions from the front lines

*Please note the end times for the following sessions.
4:15-5:15 pm*

CC. Workout: The Spectrum of Options when in a Troubled Situation (not repeated)

*Adam D. Lynch
Suzanne Koenig
Jill A. Steinberg*

- » Risk management
- » Out of bankruptcy workouts
- » Receiverships/Chapter 11 Trustee
- » Bankruptcy

DD. Problem Solving with Revalidation and CHOW

Donna J. Senft

- » The revalidation process, including required and optional screening procedures
- » Problematic areas leading up to and throughout the revalidation process, offering tips to achieve a successful revalidation
- » Discuss required buyer and seller actions to ensure that all necessary health care “licenses” and “billing privileges” remain in effect throughout the CHOW process, emphasizing the need for a systematic approach to managing the application process
- » Key provisions in purchase agreement, including steps to negotiate and maintain a revenue stream during the immediate period following the CHOW effective date

EE. Managed Long Term Care Programs for Medicaid and Medicare

*Michael W. Cheek
Christopher C. Puri*

- » How are state Medicaid programs using managed care in long term care?
- » How does managed care in the Medicaid program affect long term care providers?
- » What are the implications of integrating Medicare and Medicaid into a single managed care program?
- » What should providers seek in managed care contracts and/or legislation relating to Medicaid long term care program design?
- » How will federal initiatives in long term care (particularly through CMMI) and the ACA affect Medicaid managed care?

FF. The Emerging Concept of Surplus Safety and its Potential Implications for SNFs

(not repeated)
*Kenneth L. Burgess
Ruta Kadonoff*

- » The concept of “surplus safety” as it applies in the skilled nursing facility setting
- » Efforts at the national level to support policy change to better balance resident choice and freedom with safety concerns
- » Potential future directions and their likely implications for SNF providers
- » Legal issues surrounding surplus safety and measures to enhance resident choice.

4:15–5:45pm Extended Session

GG. The Future and Potential of Health Information Technology in Long Term Care

(not repeated)
*Patricia MacTaggart
Jane H. Thorpe*

- » The framework of health information technology as it applies to the long term care delivery system and reimbursement
- » Opportunities and challenges of using HIT to improve quality and care coordination in long term care and reduce costs
- » Legal and policy complexities of implementing HIT in long term care

Program Agenda

5:15-6:30 pm

Reception sponsored by Plante Moran and Principle Valuation LLC

(attendees, speakers, children and registered spouses and guests welcome)

Wednesday, February 27, 2013

7:30 am-3:10 pm

Registration and Information

7:30-8:30 am

Continental Breakfast sponsored by Plante Moran and Principle Valuation LLC

(attendees, speakers, children and registered spouses and guests welcome)

CONCURRENT SESSIONS

8:30-9:30 am

HH. Value-Based Purchasing Initiatives and Post Acute Care Providers – An Overview of the Legislative and Regulatory Landscape (not repeated)

Theresa Edelstein

Anjana D. Patel

- » Value-based purchasing programs under the Patient Protection and Affordable Care Act (including decreased payments for hospital readmissions, the National Pilot Program on payment bundling, accountable care organizations, and medical homes) and the involvement of post acute care providers
- » The Center for Medicare and Medicaid Innovation and its ongoing efforts to evaluate new payment and delivery models for post acute care providers including, the Bundled Payments for Care Improvement Initiative, the Independence at Home Demonstration Project, the Initiative to Reduce Avoidable Hospitalizations Among Nursing Facility Residents, and the Community-Based Care Transitions Program
- » Legislative updates and discussion of possible legal issues associated with adapting to new payment and delivery models.
- » Lessons learned/pathways forward from the implementation of new payment and delivery models

JJ. Where the Money Is - REIT Financing in Senior Housing Acquisitions (not repeated)

Brian J. Maas

Chad C. White

- » Real estate investment trust overview
- » REIT investments in senior housing pre-RIDEA
- » RIDEA and the eligible independent contractor
- » Acquisition structuring considerations post-RIDEA: NNN leases versus RIDEA joint ventures

KK. Litigating the Long Term Care Case: The View from Both Sides (not repeated)

Alan C. Horowitz

Richard L. Routman

- » How to prepare for the long term care case?
- » What documents should and should not be included in the pre-hearing exchange?
- » When is an expert witness required, and why?
- » How counsel can effectively deal with ALJ orders that may present strategic and logistical difficulties?
- » What factors tend to favor settlement?
- » What happens after the ALJ decision?

LL. The Role of Protection and Advocacy Systems in SNFs: Self-Proclaimed Caped Crusaders or Important Allies? (not repeated)

Joanne R. Lax

- » The scope of federal statutory jurisdiction of P and A Systems, and whether they have proper authority over SNF residents who are neither mentally ill nor developmentally disabled. This will include analysis of the relationship between P and A Systems and Medicare/Medicaid State Survey Agencies, LTC Ombudsmen under the Older Americans Act, State licensing agencies, and State Medicaid Fraud Units
- » The powers granted to P and A Systems within their jurisdiction
- » P and A System actions regarding SNF residents in selected States
- » SNF options in response to actions by P and A Systems

Q. Insurance Benefits: ACA Employer Obligations (repeat)

Program Agenda

9:40-10:40 am

MM. The Changing Liability Marketplace: How Senior Living Operators are Managing Professional Liability, Employment Practices Liability, and Billing Errors and Omissions

(not repeated)

Maria Terry

- » Claim trends: Frequency and severity across the country
- » Pricing trends: Is the soft insurance market a thing of the past?
- » The underwriters: traditional versus alternative risk transfer strategies
- » Managing claim costs

NN. Management of Litigation (not repeated)

Charles C.H. Lee

OO. Analyzing and Minimizing HIPAA/HITECH Risk for Post Acute Care Providers

(not repeated)

Diane E. Felix

Anthony J. Munns

Suzanne Sheldon

- » HIPAA Security and Privacy – a refresher
- » Key points from final HITECH rules
- » Data breaches hurt business and OCR is prosecuting
- » Importance of vendor management programs
- » HHS OCR has released HIPAA Audit protocols – what you need to know

S. Understanding the Troubled Facilities'

Alphabet: SFF, SIA, DAB, CIA, PI and

Transparency (repeat)

BB. Government Fraud Concerns in Hospice and Home Health (repeat)

10:50-11:50 am

PP. Yes, the Government Really Is out to Get You – Speed Traps, Cash Flow, and the Privatization of Fraud Control and Detection (not repeated)

Scott T. Hasselman

- » Medical necessity issues in investigations
- » The rise of ZPIC contractors
- » DOJ and OIG LTC investigations (e.g., high-RUG cases)

- » Speed traps and other tactics that the government is using to eliminate legal defense
- » Defenses and other tactics to take in response to these developments

QQ. Dementia Care: The Collision of Reality and Theory in Assisted Living (not repeated)

Brian E. Danaher

Matthew J. Murer

- » Physical Plant Life Safety Code issues in dementia care – creating a secure environment within a varied regulatory environment
- » Medication management in dementia care – limitations, liability and cost considerations
- » Managing behaviors associated with dementia - risk management, staff training and regulatory limitations, negotiated risk and arbitration
- » Managing the relationship with the family – addressing risks and behaviors (wandering, violence, sex) and handling consent
- » Admissions and acuity – what is the right level and what is allowed
- » Trends in the regulations and the case law and where we might be going

RR. Nursing Home Compliance Program Update – Mandatory Compliance Programs Are Here and Where Should You be Focusing Your Internal Review Efforts

Keith A. Mauriello

John Stearns

- » Mandatory compliance program for nursing homes and latest on CMS/OIG developments (covering CMS regulations presuming they are issued or what to do if they are not)
- » Where are the major compliance risks today and how to preemptively identify medical necessity concerns? Lessons from RACs, widespread probe audits, and government investigations and ways to prepare for appeal and develop strategies from the outset
- » Putting the compliance program to work – how should nursing homes go about designing, improving, and implementing monitoring, internal reviews, and the program to ferret out noncompliance, and what legal and practical considerations should nursing homes be thinking about when conducting reviews?

Program Agenda

» Using internal review results to correct, discipline, prevent recurrence, educate staff, and ultimately modify the plan

L. Ethical Advice in the Legal and Regulatory World of Caregivers and Providers (repeat)

N. How and When to Disclose and Refund Overpayments (repeat)

11:50 am-1:00 pm
Lunch on your own

CONCURRENT SESSIONS

1:00-2:00 pm

M. Providing Resident Centered Care while avoiding Risks and Liability in Assisted Living (repeat)

V. Legal Ethics: Identifying and Resolving Legal and Business Conflicts in Integrated Care (repeat)

AA. Physician Contracting – Legal and Operational Considerations (repeat)

DD. Problem Solving with Revalidation and CHOW (repeat)

2:10-3:10 pm

W. Legal Implications of Social Media Use in Aging Services Settings (repeat)

EE. Managed Long Term Care Programs for Medicaid and Medicare (repeat)

RR. Nursing Home Compliance Program Update – Mandatory Compliance Programs Are Here and Where Should You be Focusing Your Internal Review Efforts (repeat)

Adjournment

Program Faculty

PLANNING COMMITTEE

**Alan E. Schabes, Esq.,
Program Chair**

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Program at a Glance

This year there will be sessions for Nursing Facility, Assisted Living and Home Health audiences. The grid below indicates for which audience(s) a session is intended: Nursing Facility (NF) attendees; Assisted Living (AL) attendees; and/or Home Health (HH) attendees.

Monday, February 25, 2013

7:45 am-12:45 pm	Assisted Living In-House General Counsel Roundtable sponsored by NCAL (Open only to in-house counsel; attendance is limited and pre-registration is required)			
8:30 am-5:30 pm	Registration and Information			
9:30-11:30 am				Attendance for each discussion group below is limited to 30 people; there is an additional charge of \$40; and pre-registration is required.
	I. Nursing Facility Introductory Session (NF) <i>Impink Selby</i>	II. Home Health and Hospice Introductory Session (HH) <i>Dombi</i>	Interactive 1: Managing Government Subpeona Responses in the E-Discovery World (NF/AL/HH) <i>Berkshire Landa</i>	Interactive 2: Care at Home: An Evolving Landscape (AL/HH) <i>Kaufmann</i>
11:30 am-1:00 pm	Lunch on your own			
1:00-3:30 pm	<p>General Session 1:00-1:15 pm Welcome and Introduction <i>Rosati, Schabes</i></p> <p>1:15-2:00 pm Keynote Address <i>Berklan</i></p> <p>2:00-3:30 pm Panel Discussion on ZPICs</p>			
3:30-4:00 pm	Coffee Break sponsored by Plante Moran and Principle Valuation LLC			

Program at a Glance

Monday, February 25, 2013 *(continued)*

4:00-5:30 pm Extended Sessions	A. Coordinating Care for Dual Eligibles: Impact of the CMMI Demonstration on Post Acute and Long Term Care Providers (NF) <i>Reagan</i>	B. Legislative and Regulatory Update for Skilled Nursing Facilities (NF) <i>Hilliard Sierpina</i>	C. Case Law Update (not repeated) (NF/AL/HH) <i>Clark Edwards</i>	D. Assisted Living State Legislative and Regulatory Trends (not repeated) (AL) <i>Bersani Kylo Polzer</i>	E. Legislative and Regulatory Update for Home Health and Hospice (not repeated) (HH) <i>Dombi Randall</i>
5:30-6:30 pm	Networking Reception sponsored by Plante Moran and Principle Valuation LLC (attendees, speakers, children and registered spouses and guests welcome)				
6:30-7:30 pm	Celebrating Diversity and Inclusiveness Reception sponsored by AHLA's Advisory Council on Diversity (attendees, speakers, children and registered spouses and guests welcome)				

Tuesday, February 26, 2013

7:00 am-5:45 pm	Registration and Information					
7:00-8:30 am	Continental Breakfast sponsored by Plante Moran and Principle Valuation LLC <i>(attendees, speakers, children and registered spouses and guests welcome)</i>					
Please note start times for the following sessions						
8:00-9:30 am Extended Sessions	A. Coordinating Care for Dual Eligibles: Impact of the CMMI Demonstration on Post Acute and Long Term Care Providers (repeat) (NF) <i>Reagan</i>	B. Legislative and Regulatory Update for Skilled Nursing Facilities (repeat) (NF) <i>Hilliard Sierpina</i>	F. ZPIC / RAC Audits – What You Need To Know (not repeated) (NF/HH) <i>Curley Daucher</i>	G. Transform and Reform! Transitioning Long Term Care Providers into Post Acute Care Partners (not repeated) (NF) <i>Rust Vandecaveye</i>	H. On The Clock: 8 Wage and Hour Class Action Claims that Are Challenging The Health Care Industry (not repeated) (NH/HH/AL) <i>Tomaso</i>	8:30-9:30 am

Program at a Glance

Tuesday, February 26, 2013 (continued)

9:45-10:45 am	J. Home Health and Hospice Transactions: Traps for the Unwary (not repeated) (HH) <i>Harris Lang</i>	K. Overview of Long Term Care Hospitals and Inpatient Rehabilitation Facilities and Their Role in the Post Acute Care Continuum (not repeated) (NF) <i>Marshall Yoder Yohe</i>	L. Ethical Advice in the Legal and Regulatory World of Caregivers and Providers (NF/HH/AL) <i>Hessler Voigt</i>	M. Providing Resident Centered Care while Avoiding Risks and Liability in Assisted Living (AL) <i>Berdzik Graham</i>	N. How and When to Disclose and Refund Overpayments (NF) <i>Morris Zurovec</i>
11:00 am-12:00 noon	O. The Long Road to Justice and \$25 Million: The Beechwood Litigation Saga – 1999-2012 (not repeated) (NF) <i>Cooman</i>	P. Fair Housing Compliance in Senior Housing and Assisted Living (not repeated) (AL) <i>Sternthal Ulmer</i>	Q. Insurance Benefits: ACA Employer Obligations (NF/HH/AL) <i>Asencio Taylor</i>	R. Home Care Enforcement and Intermediate Sanctions: Preparing for a New Enforcement Reality after the 2013 Home Health Final Rule (HH) <i>Markette</i>	S. Understanding the Troubled Facilities' Alphabet: SFF, SIA, DAB, CIA, PI and Transparency (NF) <i>Feldkamp Miltenberger Robinson</i>
12:00 noon-1:30 pm	Lunch on your own or attend the Long Term Care, Senior Housing, In-Home Care and Rehabilitation Practice Group Luncheon sponsored by Simone Consultants, LLC (additional fee; limited attendance; pre-registration required)				
1:45-2:45 pm	T. Assisted Living Lease and Management Contracts: Considerations for the Drafter (not repeated) (AL) <i>Kapusta Purtell</i>	U. Structuring a Hospital-to-Home Transition Program (not repeated) (NH/HH/AL) <i>Gordon</i>	V. Legal Ethics: Identifying and Resolving Legal and Business Conflicts in Integrated Care (NF/HH/AL) <i>Aasen Beck</i>	W. Legal Implications of Social Media Use in Aging Services Settings (NF/AL) <i>Brent Burke Preis</i>	R. Home Care Enforcement and Intermediate Sanctions: Preparing for a New Enforcement Reality after the 2013 Home Health Final Rule (repeat) (HH) <i>Markette</i>

Program at a Glance

Tuesday, February 26, 2013 *(continued)*

3:00- 4:00 pm	X. Moving the Regulatory Requirements from Nursing Home to Assisted Living (not repeated) (AL) <i>Latsha Maag</i>	Y. From Penn State to Corporate Board Rooms – Making Compliance Programs Effective (not repeated) (NF/HH/AL) <i>Kiefer Roadman</i>	Z. Hospital/SNF Collaborations: Can Playing Well with Others Land You in the Principal's Office? (not repeated) (NF) <i>Miley Sumner</i>	AA. Physician Contracting – Legal and Operational Considerations (NF) <i>Miles Priegnitz</i>	BB. Government Fraud Concerns in Hospice and Home Health (HH) <i>McKenna Shackelford</i>
Please note the end times for the following sessions					
4:15- 5:15 pm					4:15- 5:45 pm Extended Session
	CC. Work out: The Spectrum of Options when in a Troubled Situation (not repeated) (NF/AL/HH) <i>Koenig Lynch Steinberg</i>	DD. Problem Solving with Revalidation and CHOW (NF/HH) <i>Senft</i>	EE. Managed Long Term Care Programs for Medicaid and Medicare (NF) <i>Cheek Puri</i>	FF. The Emerging Concept of Surplus Safety and its Potential Implications for SNFs (not repeated) (NF/AL) <i>Burgess Kadonoff</i>	GG. The Future and Potential of Health Information Technology in Long Term Care (not repeated) (NF/HH/AL) <i>MacTaggart Thorpe</i>
5:15- 6:30 pm	Reception sponsored by Plante Moran and Principle Valuation LLC (attendees, speakers, children and registered spouses and guests welcome)				

Program at a Glance

Wednesday, February 27, 2013

7:30 am-3:10 pm	Registration and Information					
7:30-8:30 am	Continental Breakfast sponsored by Plante Moran and Principle Valuation LLC (attendees, speakers, children and registered spouses and guests welcome)					
8:30-9:30 am	HH. Value Based Purchasing Initiatives and Post Acute Care Providers (not repeated) (NF/HH) <i>Edelstein Patel</i>	JJ. Where the Money Is - REIT Financing in Senior Housing Acquisitions (not repeated) (AL/NF) <i>Maas White</i>	KK. Litigating the Long Term Care Case: The View from Both Sides (not repeated) (NF) <i>Horowitz Routman</i>	LL. The Role of Protection and Advocacy Systems in SNFs: Self-Proclaimed Caped Crusaders or Important Allies? (not repeated) (NF) <i>Lax</i>	Q. Insurance Benefits: ACA Employer Obligations (repeat) (NF/HH/AL) <i>Asencio Taylor</i>	
9:40-10:40 am	MM. The Changing Liability Marketplace-How Senior Living Operators are Managing Professional Liability, Employment Practices Liability, and Billing Errors and Omissions (not repeated) (NF/HH/AL) <i>Terry</i>	NN. Management of Litigation (not repeated) (AL) <i>Lee</i>	OO. Analyzing and Minimizing HIPAA/HITECH Risk for Post Acute Care Providers (not repeated) (NF/HH) <i>Felix Munns Sheldon</i>	S. Understanding the Troubled Facilities' Alphabet: SFF, SIA, DAB, CIA, PI and Transparency (repeat) (NF) <i>Feldkamp Miltenberger Robinson</i>	BB. Government Fraud Concerns in Hospice and Home Health (repeat) (HH) <i>McKenna Shackelford</i>	

Program at a Glance

Wednesday, February 27, 2013 *(continued)*

10:50- 11:50 am	PP. Yes, the Government Really Is out to Get You – Speed Traps, Cash Flow, and the Privatization of Fraud Control and Detection (not repeated) (NF/HH) <i>Hasselman</i>	QQ. Dementia Care: The Collision of Reality and Theory in Assisted Living (not repeated) (AL) <i>Danaher Murer</i>	RR. Nursing Home Compliance Program Update – Mandatory Compliance Programs Are Here and Where Should You be Focusing Your Internal Review Efforts (NF) <i>Mauriello Stearns</i>	L. Ethical Advice in the Legal and Regulatory World of Caregivers and Providers (repeat) (NF/HH/AL) <i>Hessler Voigt</i>	N. How and When to Disclose and Refund Overpayments (repeat) (NF) <i>Morris Zurovec</i>
11:50 am- 1:00 pm	Lunch on your own				
1:00- 2:00 pm	M. Providing Resident Centered Care while Avoiding Risks and Liability in Assisted Living (repeat) (AL) <i>Berdzik Graham</i>	V. Legal Ethics: Identifying and Resolving Legal and Business Conflicts in Integrated Care (repeat) (NF/HH/AL) <i>Aasen Beck</i>	AA. Physician Contracting – Legal and Operational Considerations (repeat) (NF) <i>Miles</i>	DD. Problem Solving with Revalidation and CHOW (repeat) (NF/HH) <i>Senft</i>	
2:10- 3:10 pm	W. Legal Implications of Social Media Use in Aging Services Settings (repeat) (NF/AL) <i>Brent Burke Preis</i>	EE. Managed Long Term Care Programs for Medicaid and Medicare (repeat) (NF) <i>Cheek Puri</i>		RR. Nursing Home Compliance Program Update – Mandatory Compliance Programs are Here and Where Should You be Focusing Your Internal Review Efforts (repeat) (NF) <i>Mauriello Stearns</i>	

Program Information

Dates: February 25-27, 2013
Place: Hilton Austin
500 East 4th Street
Austin, TX 78701
Phone: (512) 482-8000

Registration Fees:

All members of AHLA, LeadingAge, AQNHC, AHCA, ALFA, ASHA, NAHC, NCAL, and NASL are entitled to member rates.

Postmarked and paid by February 1, 2013

\$790 For the first Member
\$715 For each additional Member
\$690 For In-House Counsel Members
\$1015 Non-Members
\$550 Non-Attorney Providers

Postmarked and paid between February 2- February 20, 2013*

\$915 For the first Member
\$840 For each additional Member
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Printed Course Materials: \$75

* Registration fees increase \$100 after this date.

If you have indicated an incorrect amount due to errors in addition or not being eligible for a specific rate, AHLA will charge the correct amount to the credit card you have supplied.

Discounted Registration Fees: Government employees, academicians, solo practitioners and students: please call (202) 833-1100, prompt #2 for special discounted registration fees.

Spouse/Guest Fee: For an additional \$50 spouses and adult guests can register to attend the receptions on Monday and Tuesday evenings and the breakfasts on Tuesday and Wednesday mornings. Please sign up on the registration form on page 23. (Children are welcome to attend at no additional charge.)

Continuing Education: Participants will be given continuing education forms at the program. Forms must be completed and returned to AHLA staff to receive credit. AHLA is an approved sponsor of continuing legal education credits in most states. This seminar will be worth approximately 17.5 continuing education credits (including 2.0 ethics credit) based on a 60-minute hour and 21 credits (including 2.4 ethics credits) based on a 50-minute hour. This seminar will be worth approximately 21 nursing home administrator credits.

AHLA is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417.

Web site: www.nasba.org. This seminar will be worth approximately 20.0 CPE credits.

There are no prerequisites or advanced preparations required to register for this group live program. Sessions are intermediate or advanced unless otherwise noted. Those seeking accounting credits should be familiar with the concepts of law and terminology associated with the area of long term care in order to obtain the full educational benefit of this program.

Hotel Reservations: Hotel accommodations are not included in the registration fee. To make a reservation call the Hilton Austin at (512) 482-8000 by February 1, 2013. *When calling, please indicate that you are attending the AHLA program to reserve a room in the AHLA block at a rate of \$229 single or double occupancy. Rooms at the group rate are limited and may sell out before February 1.*

Membership: Dues are \$185 for those admitted to the Bar/ graduated from college within the last four years; \$300 for those admitted/ graduated more than four but less than eight years ago; and \$345 for those admitted/ graduated eight or more years ago. Dues are \$155 (or \$75 for electronic benefits) for government employees and full-time academicians; and \$15 for full-time law school students to receive benefits electronically. Include the applicable membership fee with your registration form and take advantage of the program registration fee for members.

Cancellations/Substitutions: Cancellations must be received in writing *no later than February 18, 2013*. Refunds will not be issued for cancellations received after this date. Registration fees, less a \$125 administrative fee, will be refunded approximately 3-4 weeks following the program. If you wish to send a substitute or need more information regarding refund, complaint and program cancellation policies, please call the Member Service Center at (202) 833-1100, prompt #5. Please note that registration fees are based on the membership status of the individual who actually attends the program.

Special Needs: If you have needs requiring special assistance or accommodations, including special dietary needs, or have questions about accessibility issues at the program, contact our special needs coordinator, Valerie Eshleman at (202) 833-0784 or veshleman@healthlawyers.org.

Travel: Association Travel Concepts (ATC) has negotiated discounts with United Airlines, Enterprise and Avis Rental Car to bring you special fares and car rental rates lower than those available to the public. Some restrictions may apply and a service fee may apply. ATC will search for the lowest available fare on any airline.

ASSOCIATION TRAVEL CONCEPTS

1-800-458-9383

email: reservations@atcmeetings.com

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ATC is available for reservations from 8:30 am until 8:00 pm Eastern, Monday through Friday.

Program Registration Form – Long Term Care

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To register: Remit payment and completed registration form by mail to the American Health Lawyers Association • P.O. Box 79340 • Baltimore, MD 21279-0340 or fax with credit card information to (202) 775-2482. To register by phone call (202) 833-1100, prompt #2. To register online go to www.healthlawyers.org/programs.

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Early Registration Fees (faxed/postmarked and paid on or before February 1, 2013):

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 \$550 Non-Attorney Provider

Registration Fees (faxed/postmarked and paid between February 2-20, 2013):

Members: \$915 In-House Counsel Members: \$690 Non-Members: \$1140
 \$840 each additional member registering from same organization at same time on the same check or credit card payment
 \$550 Non-Attorney Provider

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I plan to attend the Celebrating Diversity and Inclusiveness Reception (Monday, February 25)

PAYMENT INFORMATION

Please fill in applicable amount: (Sorry! Registrations cannot be processed unless accompanied by payment.)

\$ _____ Registration Fee
 _____ NCAL Sponsored Session (no charge, pre-registration required; in-house counsel only)
 In-House General Counsel Roundtable (Monday, February 25)
 \$ _____ Interactive Discussion Group (\$40); (Monday, February 25); (please indicate group you plan to attend)
 1. Managing Government Supoena Responses in the E-Discovery World 2. Care at Home
 \$ _____ Long Term Care, Senior Housing, In-Home Care and Rehabilitation Practice Group Luncheon (\$40 for members of the LTC-SIR PG/\$55 for non-members of the LTC-SIR PG; Tuesday, February 26)
 \$ _____ Printed Course Materials (\$75)
 \$ _____ Spouse/Guest Fee (\$50)
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Fed ID No. 23-7333380

Printed Course Materials

All attendees will receive an electronic version of the full set of course materials for the program. If you would like to purchase a binder, please indicate that below:

I am registering for the Long Term Care Program and would like to purchase the binder for \$75



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