

Health Care

The American health care industry encompasses legal needs from "A" to "Z" — antitrust to zoning, and everything in between. Whether the need is for transactional or finance counsel, fraud and abuse compliance advice, survey and licensure, real estate assistance, employment, litigation, tax exemption or tax advice, or operational contracts, Brownstein Hyatt Farber Schreck can assemble the right team to provide health care industry clients with the required breadth of experience and knowledge. Our health care team features depth and long-term experience in addition to energy and efficiency. Our goal is to bring our cohesive, communicative and problem solving response to each of our clients' needs.

Representative Matters

- Represents multi-state medical group in negotiating risk-based and other payor contracts, including for global risk, shared risk and other forms of value based payment.
- Represents multi-state medical group in structuring management services arrangements in compliance with corporate practice of medicine and fraud and abuse restrictions.
- Represents multi-state medical group in establishing, operating and participating in Medicare ACOs, including under the Pioneer, MSSP, and Next Generation models.
- Represents California restricted Knox Keene health care service plan in maintaining license and regulatory issues.
- Represented Lower Valley Hospital District as it refinanced \$40 million in tax-exempt debt to facilitate hospital expansion and strategic initiatives in Fruita, Colorado, community.
- Performed comprehensive HIPAA Security Rule risk analysis of a Colorado medical practice and developed recommendations for enhancement of the client's HIPAA security practices.
- Obtained a full victory on behalf of a hospital after a trial on a claim against a hospital related to billing for a self-pay surgical procedure.
- Represented Fertility Lab Sciences, LLC in the formation of a new fertility laboratory joint venture and intellectual property licensing arrangement in Dallas-Fort Worth.
- Obtained complete dismissal of a complex lawsuit against a health care management services organization alleging tort and Colorado Consumer Protection Act claims based on alleged violations of Colorado's coordination of benefits laws and regulations.
- Represented RV Management Corp. and its subsidiary, Renal Ventures Management, LLC in the sale of 100% of the issued and outstanding equity interests of Renal Ventures Management, LLC to DaVita Inc. Renal Ventures Management, LLC owned and operated approximately 40 renal dialysis clinics in the states of Texas, Iowa, Pennsylvania, West Virginia, and New Jersey. The sale included a full sale process run by Raymond James, comprehensive negotiations with DaVita Inc., a detailed antitrust review process before the Federal Trade Commission, the divestiture by DaVita Inc. of several clinics (including three acquired clinics), and the spin-off of the infusion and vascular lines of business post-closing.
- Successfully represented specialized oncology treatment center in complex commercial dispute.
- Advised health care organizations regarding False Claims Act compliance issues.
- General counsel advice on hospital replacement, finance, regulatory compliance, employment, tax, real estate and operational matters for St. Vincent General Hospital District, a critical access hospital and Colorado special district.
- Represented Rise Medical Staffing, a rapidly-growing provider of travel nurse staffing solutions to hospitals and other healthcare facilities throughout the United States, in its sale to Advanced Medical Personnel Services, Inc., a portfolio company of Clearview Capital Fund III, L.P.
- Represented Fertility Lab Sciences, LLC in formation of a new fertility laboratory joint venture and

intellectual property licensing arrangements in San Francisco.

- Assist physician practice to manage HIPAA, clinical trials and biometrics issues associated with expanded cutting-edge medical services-related practice.
- Represented Fertility Lab Sciences, LLC in formation of a new fertility laboratory joint venture and intellectual property licensing arrangements in Northern Virginia.
- Successfully represented physician practice and physician owners of practice in a lawsuit by former physician employee alleging a variety of contract and tort claims arising from the former physician employee's employment with the practice.
- Counsel to Gilbert Hospital, a general acute-care hospital based in Gilbert, Arizona in its merger with Florence Hospital at Anthem pursuant to a confirmed Chapter 11 plan of reorganization. We advised on all aspects of a sophisticated merger transaction, including transition of the two hospitals under joint ownership and operation, coordinating employment and equity compensation documents for employees, and identifying and resolving health care regulatory aspects of the foregoing.
- Obtained summary judgment in favor of majority owner of an ambulatory surgery center against members of physician owner group on claims relating to buy-outs of the physicians by the physician owner group.
- Assist physician practice to clarify and reduce liability for billing practices errors identified by hospital consultants.
- Assist critical access hospitals, physician practices and senior living facilities to clarify and reduce liability for billing practices errors through voluntary overpayment OIG protocol.
- Briefed and argued case on behalf of the estate of a deceased physician before the Colorado Court of Appeals involving the application of evidence rules to an informed consent claim.
- Represented Emergency Physicians at Porter Hospitals in its Agreement and Plan of Merger by and among U.S Acute Care Solutions Holdings, LLC and USACS Management Group, Ltd.
- Represented Colorado Center for Reproductive Medicine, one of Colorado's leading fertility clinics, in a growth equity investment from TA Associates.
- Advise MBK Senior Living on Medicare and Medicaid issues, adult day care services, compliance, and PACE (Program of All-Inclusive Care) services.
- Represented CareGivers America in its sale to All Metro Health Care Services, a portfolio company of Nautic Partners.
- Represented Envision Healthcare Holdings, Inc. in its acquisition of VISTA Staffing Solutions from On Assignment, Inc. VISTA is a leading provider of locum tenens staffing and permanent placement services for physicians, nurse practitioners and physician assistants, offering international placements and physician search and consulting services to hospitals, medical practices and government agencies.
- Served as counsel to Renal Ventures Management, LLC on its sale of interests in and new joint venture with Renal Center of Storm Lake and Renal Associate Holdings, LLC. Both Renal Ventures Management and Renal Associates Holdings, LLC are engaged in the business of providing intermittent or continuous renal replacement therapy, dialysis supply services, renal diagnostic testing and other health care services.
- Served as counsel to Renal Ventures Management, LLC on its joint venture with Renal Center of Monroe and Hypertension and Nephrology Specialists Dialysis Ventures, LLC. Both Renal Ventures Management and Hypertension and Nephrology Specialists Dialysis Ventures, LLC are engaged in the business of providing intermittent or continuous renal replacement therapy, dialysis supply services, renal diagnostic testing and other health care services.
- Served as counsel to Fertility Laboratory Sciences, LLC on its contribution and joint venture formation of Fertility Lab Sciences of New York, LLC.
- Provided in-house counsel to multi-state medical group in due diligence and structuring of numerous acquisitions of medical groups and IPAs.

- Provided general corporate and health care regulatory advice to multi-state medical group.
- Counsel to Regional Care Services Corporation, the parent company of Casa Grande Regional Medical Center based in Casa Grande, Arizona, in negotiating the sale of the hospital assets to Banner Health pursuant to an Asset Purchase Agreement and related transactions. Representation encompassed all aspects of this sophisticated sale transaction, including the sale process and APA, coordinating interim financing arrangements and reorganization under Chapter 11, and identifying and resolving all health care regulatory aspects of the foregoing.
- Counsel in recovering third party reimbursement owed to single and multiemployer health plans in hundreds of separate matters, including a case recovering 100% of health plan's lien against third party reimbursement settlement fund plus 100% of attorney's fees incurred in prosecuting the lien.
- Provided general corporate and health care regulatory advice to Colorado Pain Care, LLC in connection with its joint venture formation and participation in private equity backed pain care platform.
- Represented Union County, New Mexico in connection with general corporate and health care regulatory matters with respect to Union County General Hospital, including operating and management agreements and potential acquisition of hospital assets.
- Represented health plan in a seven week jury trial involving multi-party litigation seeking to hold managed care health plan liable for decisions made at the medical group and physician level.
- Preserving consumer access to, and reducing incidents of abuse of, common ingredients in over-the-counter allergy and cold medications.
- Educated and engaged lawmakers on the needs of Veterans with hearing loss and the role of providers in ensuring timely hearing health visits are provided for Veterans. Successfully introduced legislation to increase the number of provider classes available to the VA while encouraging dialogue with the Administration on the utilization of appropriate providers throughout the VA health care system.
- Represented Casa Grande Regional Medical Center in its Agreement and Plan of Merger by and among Cancer Treatment Services Arizona, LLC, Cancer Treatment Services International, Arizona LLC, Regional Health Care Ventures and Arizona Radiation Therapy Management Services, Inc.
- Successfully pushed legislation requiring that Arizona pharmacies and retailers participate in a national database pre-clearance and tracking system to prevent the mis-use of pseudoephedrine-containing products by those seeking to acquire large quantities for meth production. The statistics already have shown a significant decrease in the number and amount of "smurfing" activities, and the new law has resulted in the blocking of nearly 15,000 boxes of PSE from being sold illegally to date in Arizona in 2014.
- Represented client in breach of contract and medical reimbursement arbitration.
- Served as counsel to Renal Ventures Management, LLC on its contribution and joint venture formation of Renal Center of Morristown, LLC and Renal Center of Succasunna, LLC, and the subsequent acquisition of assets from AHS Hospital Corp. and financing. Renal Ventures Management provides intermittent or continuous renal replacement therapy, dialysis supply services, renal diagnostic testing and other health care services.
- Led a multidisciplinary corporate, tax and health care team on behalf of a healthcare company in creating innovative new joint venture ownership structure for in vitro fertilization labs, leveraging best of breed technologies and best practices through licensing and management systems. Researched and created innovative corporate and business structure achieving business priorities while addressing competing requirements in areas of corporate, tax, insurance, consumer finance, and health care, including restrictions on corporate practice of medicine, fee splitting, self-referral, and anti-kickback.
- Represented Caduceus, LLC in the acquisition, development and financing of real property in Saginaw, MI; Sandy, OR; Locust Grove, VA; and Ankeny, IA; and the sale of medical office buildings in Chicago, IL; Hainesport, NJ; Chula Vista, CA; and Amarillo, TX.

- Represented the TriZetto Group, Inc. in its acquisition of Healthcare Productivity Automation, LLC, a Franklin, Tennessee based company that employs a highly advanced, cloud-based claims workflow tool, Health Mason.
- Working with Congressional committees of jurisdiction to challenge the Food and Drug Administration to apply more accurate risk/benefit profiles to needed therapies for obesity. Secured the introduction of and support for federal legislation to provide reimbursement for these therapies under the Medicare and Medicaid programs.
- Assisted in successfully defending national health insurer against bad faith claim for rescission of policy at the trial court level and on appeal. *Siefers v. PacifiCare Life Assur. Co.*, 461 F. App'x 652, 653 (9th Cir. 2011).
- Led the Coalition for Patient Safety and Medicine Integrity, a group of pharmaceutical, medical device and medical products companies, in developing the substance and strategy for passage of the SAFE DOSES Act, which modernized the criminal code to increase penalties for medical product cargo theft and provide law enforcement tools to deter and prosecute this criminal activity. At a time known for partisan gridlock in Congress, our Brownstein team successfully devised solutions for overcoming legislative paralysis, resulting in one of the few new laws enacted by the 112th Congress.
- Representation of health plans in separate actions for the recovery of over \$9 million in overpayments to providers.
- Represented health insurers and Medicare Advantage organizations in emergency TRO and preliminary injunction motions involving contract disputes and noncompetition issues with providers.
- Successfully defended one of the country's largest ambulatory health care companies in litigation against physician group.
- Prevailed in arbitration on behalf of the manager of an ambulatory surgery center against a majority physician owner group, successfully obtaining injunctive relief and securing management control over the center.
- Represented Renal Ventures Management, LLC in its divestiture of certain assets by Renal Center of Midland-Odessa, LLC to Bio-Medical Applications of Texas, Inc.
- Successful defense of health insurer in an action brought for benefits where member failed to obtain preauthorization for experimental surgery not covered under the terms of the member's health plan. *Anderson v. PacifiCare of Nevada, Inc.*, No. 2:10-CV-1279-GMN-PAL, 2012 WL 1155448 (D. Nev. Apr. 5, 2012).
- *Catholic Healthcare West Mercy Gilbert Medical Center v. PacifiCare of Arizona, Inc.*, Arbitrated issue of whether Medicare-based reimbursement under an MA Plan contract includes capital costs for "new hospital" when paid on a cost basis and not prospectively under the IPPS Pricer, and issue of the application of Hall Street to standard of judicial review of arbitration awards in Arizona.
- Advised Medicare Advantage organizations and Part D sponsor in developing sales and marketing programs in compliance with the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA).
- Advised health plans in developing and implementing compliance programs for Medicare Advantage, Part D and commercial health plans.
- Represented clients in negotiating provider network participation agreements between health plans and health care providers.
- Represented clients in reimbursement disputes between health plans and contracted and non-contracted hospitals and other providers, including with respect to reimbursement under Medicare and Medicaid.
- Served as Nevada counsel to BWAY Holdings Company and its Nevada subsidiary. Brownstein issued an Exhibit 5 opinion in connection with the registration of 10% senior notes and guarantees relating to an exchange offer.

- Worked on behalf of a small biopharmaceutical company to ensure new Medicaid rules would not make it cost-prohibitive to provide its rare-disease medicine to Medicare recipients.
- Preserving data protections for costly, research intensive, biological pharmaceutical products; ensuring appropriate reimbursement rates for life sustaining products; and including healthy lifestyle initiatives in the Affordable Care Act.
- During the health care reform debate, helped a major pharmaceutical company successfully advocate for a new FDA-approval pathway for follow-on biologic treatments in a way that preserves the United States' competitive edge in biotechnology while ensuring an appropriate balance between investment in new discovery and containing costs to patients.
- Assisted a large international health care company in protecting patient access to life-sustaining clotting factor treatments by advocating for a limited increase in mandatory price discounts.
- On behalf of Z-Medica, a medical device company, worked to introduce the effectiveness of their product, QuikClot, to the military. QuikClot is now in widespread use in the military, in first responder and law enforcement units, and within various Homeland Security markets. The product is so effective that a military advisory committee recommended that all soldiers carry packets in their first-aid kits.
- Successfully defended a medical malpractice insurer against charges in market conduct examination by the Colorado Division of Insurance; represented the insurer on appeal of an adverse ruling before the Colorado Court of Appeals.
- Assisted Western Athletic Clubs reorganize its corporate structure through internal corporate mergers.
- Assisted Aion Partners LLC in its corporate structuring and private placement of limited liability company units to raise equity for bringing its technology to market. Brownstein also secured the intellectual property rights for Aion to sell its proprietary, green technology that minimizes the occurrence of hospital-acquired secondary infections.
- Helped physician owned hospital retain its governing structure in health care reform.
- Assisted a small pharmaceutical company in obtaining appropriate reimbursement rates under new health reform law.
- In Health Care Reform, aided a major pharmaceutical company in its successful fight to preserve patent protection for costly, research intensive, biological pharmaceutical products.
- Represented an artificial heart valve company in a \$20 million supply contract dispute resulting in favorable mitigation of client exposure and the eventual sale of the company to a major healthcare conglomerate.
- Regularly represents health plans in first and third party health service contract disputes.
- Represented health plan in binding arbitration related to litigation against a medical provider involving incorrect billings and the appropriate level of care.
- Represented Naples Nephrology in its joint venture with US Renal Care.
- Successfully represented health plan in multiple ERISA actions.
- Represented international health plan in litigation against state wide medical provider involving a contract dispute related to overcharges in the tens of millions of dollars.

News & Events

- Can The Affordable Care Act Survive The Latest Challenge?
- Darryl Landahl Rejoins Brownstein's Health Care Practice as Shareholder
- Driving Health Care Efficiencies: Consolidate and Innovate, But Proceed with Caution
- Artificial Intelligence in Hospitals
- HIPAA Privacy Rule Policy & Procedure Manual for Mental Health Practitioners in Colorado
- Compensability of Meal Breaks in Patient Care Environments
- Lessons Learned from Last Week's Health Care Bill Failure

- Brownstein Welcomes Health Care Litigator Erin McAlpin Eiselein
- Nevada Government Affairs: Health Care Updates
- Brownstein Named Health Care Law Firm of the Year in New Mexico by Global Law Experts
- Healthcare Law 102
- Healthcare Law 101

Meet The Team

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