

Health Care Practice

Fennemore Craig, a full-service business law firm, provides services to a range of clients within the health care and bioscience industries, including acute care hospitals and multi-facility hospital systems, in-patient and out-patient behavioral health facilities, health maintenance organizations, physician groups, individual health care providers, long-term care facilities, medical associations, pharmaceutical companies, medical device companies, research organizations and universities. The firm has represented a number of private hospitals in the Southwest and West, either directly or through insurance carriers. The firm has extensive experience representing for-profit and non-profit health care clients in a broad range of areas, including medical negligence defense, commercial litigation, antitrust, e-discovery, business and financing transactions, joint ventures, mergers and acquisitions, governmental relations, licensure, credentialing and other professional matters, intellectual property, and employment matters.

Medical Negligence Defense and Representation of Health Care Professionals

Fennemore Craig's representation of hospitals, physicians, nurses and other health care providers throughout the Southwest and West encompasses decades of experience defending claims of medical negligence, wrongful death, elder abuse, negligent peer review and staff privilege processes, and other claims. Several of the attorneys and nurse consultants in the medical negligence practice group are licensed health care professionals. The firm's clients range from large hospital systems to smaller community hospitals and non-profit entities which provide health care services. Case experience is vast, involving such medical specialties as orthopedics, obstetrics, neonatology, pediatrics, radiology, emergency medicine, psychiatry, surgery, neurosurgery, neurology, anesthesiology, internal medicine, cardiology, behavioral health, elder abuse, and many other areas. The firm's attorneys also have substantial experience in physician credentialing, peer review and hospital risk management processes, the scope of physician-patient and attorney-client privileges, issues relating to claims of actual and ostensible agency in the health care context, and Medicare reporting and secondary payer issues. We represent physicians before the Arizona Medical Board and the Arizona Board of Osteopathic Examiners. We also represent a wide variety of other health care providers before their respective state licensing boards.

Commercial Litigation, E-discovery and Antitrust

We represent clients in quality of care and risk management issues, staff privilege matters, product liability, personal injury and business tort actions. We represent health care related organizations in labor and employment and workers' compensation litigation. The firm's environmental practice represents health care clients against claims of toxic chemical exposure. The firm has extensive experience representing major pharmaceutical companies and medical device manufacturers and has been involved in litigation for heart valves, hip and knee replacements and other prosthetic and medical devices. Pharmaceutical litigation has included representation of the manufacturers of Prozac and Fen-Phen, among others. The firm's attorneys also have substantial experience in electronic discovery issues including advising clients on legal holds and preservation, identification, collection, processing and production of electronically stored information (ESI). The firm's attorneys focus on assisting clients with both pre- and post- litigation planning including document and records retention policies, litigation hold policies, and the creation of in-house e-discovery teams, as well as assisting clients with the development, implementation and management of a strategy for collecting, reviewing and producing ESI through the discovery phase. Our involvement in antitrust matters has included advice and legal documentation services on the formation of physician groups and preferred provider organizations, monitoring and defense of federal antitrust investigations for physician groups, representation of a hospital employee in an antitrust grand jury investigation, and conducting antitrust audits. The firm also has represented hospitals and physicians in antitrust actions arising from peer review proceedings, and has represented health care providers and other health care industry participants in private civil antitrust actions and in state and federal enforcement investigations.

Corporate, Commercial and Non-Profit

The firm's commercial section provides broad-based support and a depth of experience in business matters involving for-profit and non-profit health care clients. Our attorneys offer assistance with an extensive range of commercial transactions, including formation of professional corporations, prepaid health plans and other business entities; financing transactions (including tax-exempt financings); equipment leasing transactions; real estate acquisitions and sales; and tax issues (including tax issues of special concern to tax-exempt health care clients). We have represented hospitals and other health care providers on joint ventures, strategic alliances and securities offerings. We also have significant experience representing health care clients in mergers and business acquisition transactions. The firm's construction group within the firm's commercial section is active with matters involving hospital design and construction, with expertise in the structuring and administration of design and construction contracts from the hospital perspective. The firm's construction group also offers assistance with structuring solicitations for procurement of design professionals and contractors, advice during selections, and negotiating terms of lender construction disbursement requirements to conform with contract requirements. Our construction attorneys also have extensive experience assisting hospitals with resolution of disputes arising from construction, ranging from liens to course of construction disputes, and defects first appearing after completion as well as

during hospital operations. Representative engagements include representation of a non-profit hospital and its affiliates with transactional, real estate and construction matters involving integration of operational issues unique to the health care industry, including the sale of a large health maintenance organization. Our attorneys also have developed contracts for a major, multi-phase hospital expansion project, as well as developed equipment leasing program documents for a large non-profit hospital system with facilities in the Southwest and West.

Administration, Legislation, Regulation and Appeals

The firm was instrumental in formulating and passing legislation resulting in the deregulation of the hospital industry in Arizona and permitting Maricopa County to privatize the County Hospital. Other legislative issues in which the firm has been involved include medical malpractice and tort reform, managed care and hospital regulation, non-profit operations, patient rights and grievance/appeal procedures. Our attorneys advise health care clients on regulatory matters involving federal and state agencies, contract review, medical organization credentials, environmental permits and enforcement actions, antitrust issues, National Practitioner Databank issues, health care licensure, and HIPAA and confidentiality/records matters. The firm has experience with health care provider and insurer liens and reimbursement claims, Medicare Secondary Payer issues and mandatory Medicare reporting under Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007. Our attorneys also advise hospitals regarding the authority of statutory surrogate decision-makers for treatment or end of life issues. We have also assisted with the court appointment of guardians and conservators for incapacitated patients in connection with their hospital discharge. The firm also has substantial experience handling appellate matters before federal and state courts, administrative agencies, and regulatory boards and commissions. Our appellate work has included significant matters related to health care litigation and regulatory matters.

Intellectual Property

The firm counsels health care and bioscience clients on all aspects of intellectual property protection for their proprietary innovations, including trademarks, logos, copyrights, trade secrets and patents. We provide management and counseling with respect to clients' intellectual property portfolios, due diligence investigations, intellectual property audits, and preparation and prosecution of U.S. and foreign patents. We also negotiate and draft agreements involving pharmaceuticals, nutraceuticals, and other health care related items, including confidentiality, research and development, drug manufacture and testing, animal study, clinical study, joint development and related agreements, adoption and enforcement of trademarks, and intellectual property litigation.

Labor and Employment

Our health care clients benefit from the firm's significant experience working with corporate counsel, human resources professionals and management to develop programs designed to improve and define employment relationships, and reduce the likelihood of disputes. We counsel health care clients on personnel policies and procedures, non-competition and non-solicitation agreements, individual employment decisions, drug and alcohol testing policies, and compliance with state and federal statutes and regulations. Our attorneys have substantial experience in employment-related litigation, workers' compensation matters and unemployment compensation issues. We regularly appear on behalf of clients before federal and state administrative agencies. We advise health care clients on employee benefits issues and designs, and counsel clients on retirement, profit-sharing and other benefits programs.

Health Care Practice Group

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