Healthcare

Undergoing shifts in policy, accelerated digital transformation and growth dynamics, the healthcare industry requires counsel steeped in the relevant framework of the healthcare system, strategic in their approach, and possessing the ability to strongly and effectively advocate client interests. Our multidisciplinary team helps clients in the healthcare sector navigate a broad spectrum of transactional, litigation, regulatory, insurance, as well as investigation and enforcement matters.

We regularly advise healthcare sector entities and professionals on day-to-day strategic planning, new service development, risk management, physician recruitment, physician credentialing, peer review, and Medicare and Medicaid billing and reimbursement issues. We regularly assist healthcare, biotech and pharmaceutical industry clients with drafting and prosecuting patent and trademark applications, filing copyright registration applications, protecting trade secrets and avoiding infringement of the intellectual property rights of others.

Comprehensive Legal Services for the Healthcare Industry

We represent the full range of clients in the healthcare sector, including providers, payors, managed care organizations and suppliers of specialized services and products to this ever-changing industry. By providing sophisticated, solutions-oriented advice, our integrated team helps our healthcare sector clients execute their strategic plans; assess, manage and mitigate risk; and succeed in litigation. Whether advising on a bet-the-company transaction or a more routine matter, we tailor our representation to best achieve the desired outcome.

Transactional and Finance Matters

Our team is well-versed in addressing the business, reimbursement, tax structuring and risk allocation issues unique to the healthcare sector that arise in mergers, acquisitions, financings and dispositions of healthcare institutions and assets. We also assist in the structuring and formation of joint ventures among hospitals, physicians and other nonprofit and for-profit healthcare providers. We have handled numerous regulatory filings associated with intercompany insurance transactions, such as Form A filings.

We represent lenders to the healthcare industry in asset-based financings, cash flow loans, term loans, and real estate single- and multi-tranche lending transactions. We are regularly involved in transactions such as:

- Working capital facilities to support the liquidity needs of assisted-living and skilled nursing facilities, device manufacturers and distributors, and other providers of health-care-related goods and services.
- Acquisition financing to fund purchases of portfolios of skilled nursing facilities through operations transfer and management agreements, including associated real estate.
- U.S. Department of Housing and Urban Development (HUD) loans and related intercreditor arrangements with healthcare facility operators, real estate owners, real estate investment trusts (REITs) and other landlords.
- Construction financing for medical office buildings, renovations and refits.

In addition, we handle Medicare/Medicaid provider agreements and related audit issues, double lockbox arrangements, licensing transfers, and matters related to change of ownership (CHOW), such as change-of-control triggers.

Litigation

Our litigation practice has a long track record of successfully representing national and regional health insurers, health maintenance organizations (HMOs) and other managed care organizations (MCOs), third-party administrators and self-insured plans in disputes with in-network and out-of-network providers and in Employee Retirement Income Security Act (ERISA), Medicaid, Medicare, fraud and abuse, and affirmative fraud recovery actions.

Known for our innovative approach to evaluating risk and exposure stemming from compliance and governance concerns, business disputes and government investigations, we set a course for efficient resolution. We defend hospitals, physicians, nurses and various other healthcare providers and entities faced with medical malpractice and professional liability claims, litigation involving physician compensation arrangements, as well as state and federal healthcare fraud and False Claims Act (FCA) allegations.

Health Insurance Regulation and Compliance

We provide advice and regulatory guidance on provider risk sharing for integrated delivery systems (IDSs), physician hospital organizations (PHOs), physician organizations (POs), independent practice associations (IPAs) and accountable care organizations (ACOs); managed care programs for Medicaid/Medical Assistance recipients; claims involving insurance regulatory interpretation, including expert opinions on those matters; asset management and investment strategy for insurance companies; and insurance company investments and investment policies.

Tax-Exempt Structuring

Our lawyers address the tax structuring, valuation and other needs unique to tax-exempt health organizations. In addition to forming nonprofit medical schools, hospitals, nursing homes and supporting organizations for assisted-living facilities, we apply for federal tax-exempt status for clients and obtain sales and real estate tax exemptions. We assist our tax-exempt clients in responding to tax audits and have counseled clients on issues relating to intermediate sanctions, private inurement and private benefit. We have also obtained favorable rulings from the IRS and state and local agencies on the tax consequences of various transactions. In addition, our religious, educational and nonprofit organizations lawyers provide comprehensive services related to nonprofit healthcare and social services agencies.

Regulatory Compliance, Enforcement and Investigations

We routinely advise healthcare sector entities and professionals regarding compliance with federal and state statutes and regulations, and we represent them before both federal and state regulatory agencies in enforcement investigations; civil and criminal matters involving whistleblower/qui tam suits and claims under the False Claims Act, Foreign Corrupt Practices Act (FCPA), Stark Law and Anti-Kickback Statute, as well as other fraud and abuse claims; subpoenas and civil investigative demands; and audits of payment claims. With a keen understanding of the unique regulatory and oversight requirements, we provide practical advice regarding Medicare provider enrollment and recertification, regulations governing ACOs, the Emergency Medical Treatment and Active Labor Act (EMTALA), and equivalent state laws governing each of these areas.

We routinely represent the interests of hospitals and health systems, physicians and physician groups, pharmaceutical companies and licensed healthcare professionals in responding to investigations and administrative complaints filed by state licensing authorities and professional boards. We also assist companies in obtaining state licenses for a wide variety of facilities, including ambulatory surgical centers, skilled nursing facilities, nursing homes, hospices, urgent care centers and rehabilitation facilities.

Our lawyers regularly counsel healthcare clients on an array of issues involving the Health Insurance Portability and Accountability Act (HIPAA) and other health information privacy and security compliance laws and regulations, including guidance to covered entities, business associates, hybrid entities, research organizations and sponsors, and health IT vendors. We are well-versed in assisting clients in complying with rules governing electronic storage of protected health information and, where unauthorized access to protected health information is discovered, dealing with the U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR). Members of our team are credentialed as Certified Information Privacy Professionals for the United States (CIPP/US) and Europe (CIPP/E).

Representative Matters

- Represented Covetrus, a Portland, Maine-based global animal-health technology and services company, in its agreement for Chewy Inc. to acquire its subsidiary SmartPak Equine, a leading U.S. provider of direct-to-consumer equine nutraceutical supplements.
- Negotiated a no-admission-of-liability settlement on behalf of a pharmaceutical company in connection with a civil FCA matter investigated by the U.S. Attorney's Office for the Eastern District of Pennsylvania. The case originated from a qui tam complaint where the government initially sought damages well in excess of $400 million. The case was resolved for approximately 4% of the initial damages assessment and a corporate integrity agreement was reached with the HHS Office of Inspector General (OIG) that avoided any debarment or exclusion sanctions.
- Represented a multistate oncology group to assess and respond to multiple data breach incidents and prepare HIPAA-mandated breach notifications.
- In a case described by a Pennsylvania federal court as "one of first impression," prevailed on a motion to dismiss for lack of personal jurisdiction over a health insurer, even though the insurer had a certificate of authority from the Commonwealth's Insurance Department.
- Represented Horizon Blue Cross Blue Shield of New Jersey in its joint venture with two major hospital systems to form a Medicare Advantage insurance company and in connection with various investments in healthtech and behavioral health ventures.
- Obtained summary judgment in the trial court and subsequent affirmance in a published decision issued by the Superior Court of New Jersey, Appellate Division, in a dispute relating to the coordination of benefits between a health insurer and a provider of personal injury protection insurance benefits.
- Tried a healthcare provider's appeal of Medicare's multimillion-dollar overpayment determinations before an administrative law judge and reduced the government's claims by 70%.
- Represented healthcare providers regarding Medicare and Medicaid reimbursement disputes at state and federal levels, including in the self-disclosure protocol process with the OIG.
- Negotiated commercial contracts for a developer of cell therapies targeting solid tumors with university research departments, pharmaceutical manufacturers, contract research organizations and other specialty service providers.
- Represented the owners of Main Line Spine Surgery Center in the sale of a majority equity interest to a joint venture of Virtua Health and Surgical Care Associates.
- Represented a medical doctor prosecuted by the U.S. Attorney's Office for the District of New Jersey for receiving payments for patients' allegedly medically unnecessary imaging testing.

Experience

Stradley Ronon Advises Lenis Group in Sale of Majority Stake to Great Point Partners
Stradley Ronon represented Lenis Group, a Slovenian-based full-service regional commercialization and distribution partner for niche and specialty prescription medicines in Central and Eastern Europe, in the sale of a majority ownership stake to Great Point Partners, a U.S.-based private investment firm focused on the healthcare industry. The transaction was announced on December 10; the value was undisclosed.

The acquisition will support Lenis' regional expansion and accelerate its vision of broadening access to high-quality specialty medicines across Central and Eastern Europe.

Read the announcement.

Stradley Ronon Advises Covetrus in Connection with Definitive Agreement for Chewy's Acquisition of SmartEquine Business

Stradley Ronon represented Covetrus, a Portland, Maine-based global animal-health technology and services company, with respect to its agreement for Chewy Inc. to acquire its subsidiary SmartPak Equine LLC (SmartEquine). The transaction, announced October 30, is expected to close by year-end subject to customary closing conditions.

SmartEquine is a leading U.S. direct-to-consumer provider of equine nutraceutical supplements. The deal will allow for Covetrus to focus on its core business of delivering technology-enabled solutions that help streamline and strengthen veterinary practices.

Stradley Ronon Advises Horizon BCBSNJ in Joint Venture with Deerfield Management

Stradley Ronon represented Horizon Blue Cross Blue Shield of New Jersey, the state's oldest and largest health insurer, in a joint venture with Deerfield Management Co., an investment firm dedicated to advancing healthcare with more than $14.6 billion in assets under management.

The partnership will allow independent physicians to upgrade their practices and provide value-based payment arrangements while continuing to deliver high-quality patient care.

Read Horizon's press release.

Stradley Ronon Attorneys Victorious in Historic Appellate Decision Granting the Garden State's Largest and Oldest Health Insurer, Horizon, to Reorganize Corporate Structure

New Jersey's appellate court issued an opinion today, May 31, 2023, in a matter concerning a challenge to the reorganization of Horizon Blue Cross Blue Shield of New Jersey, deciding whether the almost a century-old health insurance carrier could reorganize its corporate structure to a mutual insurance holding company. The court unanimously upheld Stradley Ronon's arguments on behalf of Horizon to reorganize as a mutual holding company saying, "As Horizon correctly noted at oral argument, on the critical issue of membership in the new MHC, the statute controls. For these reasons, based on the facts presented, we are unconvinced the revelation of this information at the public hearings would have led to a different result."

Andrew I. Hamelsky, partner-in-charge of the firm's Newark office and member of the firm's healthcare litigation team, defended and argued on behalf of Horizon Healthcare Services, Inc. on May 1, 2023. The Stradley Ronon team also included Spencer R. Short and Deenah Sirota.

Stradley Ronon's arguments focused on how the corporate reorganization will benefit the State, including creating a more modern structure that will allow Horizon to provide better services to their members by partnering with innovative healthcare companies.

Stradley Ronon worked closely with Horizon representatives, state agencies and partners on this landmark application.

IHG Expands Third-Party Administrator Business

Stradley Ronon represented Independence Health Group (IHG), parent company of Independence Blue Cross, in an asset purchase that included customer contracts from Minnesota-based Comprehensive Care Services Inc., a third-party administrator that provides services to employers, union groups and tribal businesses and communities that self-fund their health plans. The purchase, made by two IHG subsidiaries, continues the expansion of Independence Health Group's third-party administrator business by acquiring third-party administrator and Tribal business from CCS totaling approximately 30,000 members in Minnesota, Nebraska, North Dakota, South Dakota, Washington and Wisconsin.

Aetna and Coventry Merge to Serve 22 Million Members

Stradley Ronon represented Aetna Health Inc. in connection with its application for regulatory approval regarding its acquisition of Coventry Healthcare of Delaware Inc. In addition to the various regulatory filings, the matter involved an evidentiary hearing before the Delaware Department of Insurance. The merger relates to an ongoing effort to consolidate entities within an insurance holding-company system which will increase Aetna's presence in the fast-growing government sector.