

# Health Care

## Overview

The health care marketplace is characterized by its unprecedented opportunities, innovations and rapid change. Such a dynamic industry demands highly proficient legal and regulatory advisors who understand the nuances of the health care environment. Drawing upon first-hand business and operational experience, Munsch Hardt's multidisciplinary health care team helps clients not only navigate through regulatory requirements, but also seize strategic business opportunities.

Having long served as trusted advisors to an array of health care businesses, our attorneys understand the unique relationships that exist between providers, patients, payers and regulators. Many of the businesses we serve include the following:

- **Long-Term Care & Post-Acute Care Facilities** – Skilled nursing facilities (SNFs), assisted living facilities (ALFs), continuing care retirement centers (CCRCs), home health agencies, hospices, rehabilitation centers and more.
- **Hospital Systems** – Tax-exempt and for-profit health care systems, long-term acute care hospitals (LTACHs) community and specialty hospitals, as well as ambulatory surgery, radiation oncology, cardiology and lithotripsy centers.
- **Physicians & Physician Groups** – Internal medicine groups, orthopedic surgeons, physical medicine specialists, pain management groups and OBGYN medical groups.
- **Management Groups** – Management service organizations (MSOs), group purchase organizations (GPOs) and dental service organizations (DSOs).
- **Ancillary Services** – Pharmacies, clinical labs, dentists, veterinarians, non-physician practitioners (e.g. physician assistants and nurse practitioners), optometrists, chiropractors, podiatrists and wellness centers, including medical spas.
- **Health Care Investors** – Private equity funds, real estate investors, private accredited investors and developers.
- **Manufacturers & Distributors** – Medical device, regulated products (e.g. medicinal cannabis) and durable medical equipment companies.
- **Mobile & Technology Health Care Companies** – Mobile health care providers, medical application developers and telehealth providers.

Our ability to represent clients in each of these segments is a testament to the Firm's integrated legal representation. This type of integration is highlighted by the specific practices outlined below:

## **BANKRUPTCY, RESTRUCTURING & INSOLVENCY**

Recognized by *Chambers USA* since 2005, our Bankruptcy, Restructuring & Insolvency group has extensive experience representing all major constituencies in bankruptcy, restructuring and insolvency matters. We are adept at every facet of the bankruptcy and restructuring process, which allows our clients to better evaluate possible outcomes, develop strategies, assess risks and ultimately plan for the future.

## **CORPORATE & SECURITIES**

We represent dynamic, growing businesses in transactions and other matters that are critical to their success. Our services include mergers and acquisitions; venture capital; private equity; family office investments; business succession planning; technology contracts and intellectual property licensing; corporate governance and special board committees; securities offerings and capital raises; outsourced counsel services; executive compensation; joint ventures; and transactional tax planning and controversies.

## FINANCE

When clients partner with Munsch Hardt, they partner with some of the best and most experienced finance attorneys in the industry. In fact, there are few law firms involved in as many complex lending transactions as Munsch Hardt. Our Finance attorneys represent lenders from a variety of disciplines within the industry, including banking institutions, non-regulated lenders, private equity and hedge funds, as well as domestic and foreign financial institutions in a broad range of transactions.

## HEALTH LAW

The Firm's Health Care attorneys have a strong foundation and experience in matters involving federal and state anti-kickback, self-referral (Stark), health information privacy and security (HIPAA), false claims, licensing, civil monetary penalties (CMPs), certification (e.g. Medicare) and corporate practice of medicine laws, as they impact entity/facility acquisition, formation and development; reimbursement; and licensing and operational matters, including physician credentialing and medical staff governance.

## IMMIGRATION

Our Immigration attorneys represent hospitals, healthcare organizations and other health care providers with obtaining the proper work permits and visas for hiring, transferring and training doctors, medical and support personnel in the United States. We also provide counsel on I-9 issues, hiring and termination decisions with regard to foreign nationals, employer sanctions and anti-discrimination laws compliance.

## INSURANCE

The Firm has also developed a niche practice representing insureds in insurance coverage matters, including litigation of coverage disputes. Members of the group work with clients in the health care industry, and have extensive experience with all major lines and types of commercial insurance, including D&O, professional liability, employment practices, fiduciary liability, commercial general liability, cyber liability, technology errors and omissions, excess/umbrella, non-subscriber plans and employer's liability coverage, health care provider insurance, commercial property, builder's risk, business interruption, executive liability, FLSA coverage, Medicare fraud coverage, product recall, crime and fidelity, adjuster errors and omissions and reinsurance. The group also has extensive experience in dealing with the many complexities presented by surplus lines insurance and coverage under Lloyd's plans.

## LABOR & EMPLOYMENT

Our Labor and Employment attorneys provide consultation regarding various labor and employment matters, including personnel decisions (such as hiring, discipline, leave and termination); employment policies and procedures; employee complaints and/or reports of discrimination, harassment and/or retaliation; employer investigations surrounding employment issues; responses to inquiries by various state (Texas) and federal administrative agencies, including the Texas Workforce Commission (TWC), Equal Employment Opportunity Commission (EEOC), Department of Labor (DOL), National Labor Relations Board (NLRB) and Occupational Safety and Health Administration (OSHA); and compliance with state and federal employment regulations applicable to health care providers.

## LITIGATION

Our Litigation team is well-versed in health care-related disputes, including joint venture disputes, business dissolution, real estate litigation, covenants not to compete, medical malpractice, medical products liability and personal injury defense. While going to trial is not our goal, it is a distinct advantage for opposing counsel to know we are willing and able to do so if necessary.

## REAL ESTATE

The Firm's Real Estate attorneys focus on representing skilled nursing facilities, medical office buildings, portfolios of medical and assisted living properties and more. With attorneys who focus almost exclusively on the health care industry, our team can handle any type of transaction involving real estate development, acquisition, financing, disposition, construction, leasing, operations and maintenance contract review. In this regard, we have worked to create templates which increase efficiency and provide consistent, predictable protections for our clients' real estate dealings.

## REGULATORY

Our Health Care attorneys advise clients on federal and state health care fraud and abuse and *qui tam* related matters, advising on corporate integrity arrangements, governmental audits (e.g. ZPICs) and governmental investigations (e.g. OIG). Our extensive focus and experience in this area allows our attorneys to effectively monitor ongoing changes in this very fluid industry, and it helps us develop creative approaches to achieve our clients' goals while maintaining compliance with these complex laws.

## TAX

Our Tax attorneys advise tax exempt and taxable health care companies with respect to a multitude of federal and state tax issues. Representative engagements have involved advising our health care clients on tax issues that arise from operations to tax issues that arise in the transactional setting, including taxable and tax-free acquisitions and dispositions, reorganizations, recapitalizations, financings, structure of real estate investments and structure of incentive compensation arrangements for key employees.

## Experience

### Hospital Acquisition

Represented non-profit organization that operates a network of hospitals and related health facilities in its \$116.5 MM acquisition of the a major medical center. The hospital, medical office building and parking garage, were purchased through an auction process approved by a bankruptcy court.

### Medical Office Building Development

Represented a real estate developer in the development of a new Medical Office Building, which is located on a campus featuring a full-service hospital, as well as an outpatient imaging center, a women's imaging and breast center, a bariatric clinic and ancillary medical office buildings. This deal was complicated in that the real estate developer invited physicians with hospital privileges to acquire up to 25% of the equity in the Project. As this was a first-time structure for the firm's client, our Corporate team helped the developer navigate all of the securities and disclosure issues.

### Health Care Technology Merger

Represented a leading provider of on-demand health care access services, and the leading provider of live medical answering services in its merger with the first and largest telehealth provider in the nation.

## Health Care Litigation

Represented a nationwide health care organization in two cases involving disputes with a joint venture partner. Munsch Hardt also advised the organization on a covenant not to compete dispute with a major competitor out of Massachusetts, involving the hiring away of a medical director for a chain of dialysis clinics in the El Paso, Texas area.

## Health Care Immigration Counsel

Represents a non-profit company that operates a network of hospitals and related health care facilities in Texas, and its doctors, technical, IT and medical personnel with non-immigrant and permanent immigration proceedings planning and implementation through Green Card obtainment.

## Imaging Center Acquisition

Represented a community hospital system in an imaging center acquisition, while advising on multiple Stark Law and Anti-Kickback Statute (AKS) concerns.

## Mobile Health Application + License

The Firm represented a medical supply company in the development of a mobile health application that allows various health care providers to view a picture of patients' wounds and discuss treatment plans and healing via a mobile telecommunications device. Munsch Hardt advised the company on how to launch this mobile health application in a HIPAA-compliant manner, and prepared licensing agreements between the company and health care systems for use of the application.

## Products Liability

Served as part of a national trial team for a major manufacturer on product liability claims related to silicone breast implants. Our attorneys were part of the trial team that secured the first jury trial victory in Harris County by an implant manufacturer, which was followed by four other defense verdicts over the next three years. We secured the first directed verdict for an implant manufacturer in the country, which was achieved after plaintiff's causation experts were excluded on Daubert grounds.

## Acquisition of Assisted Living Facilities

Represented two private equity firms and a real estate investment firm in connection with their acquisition of the management business of an operator of assisted living facilities throughout the United States and Canada. Munsch Hardt handled the due diligence review and analysis of the real estate assets, including the facility management agreements, leases and debt documents.

## Contractor Audits

Represented one of the largest post-acute care providers in a multi-million dollar set of Medicare Zone Program Integrity Contractor audits by successfully overturning a Qualified Independent Contractor (QIC) decision at the Administrative Law Judge (ALJ) appeal level.

## Practice Leaders



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## Related People

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William Finegan  
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Stephen Gibson  
Mark Girtz  
Michael Huddleston  
Jon Hyland  
James Jordan  
Sameer Karim  
Robert Kibby  
Mark Kopidlansky  
Elvia Munoz

Deborah Perry  
Irina Plumlee  
Justin Ratley  
Carrie Schadle  
Christopher Speer  
Fred Wahrlich  
Austin Wyker

## Related Practices

Bankruptcy, Restructuring & Insolvency  
Corporate & Securities  
Finance  
Immigration  
Intellectual Property  
Labor & Employment  
Real Estate  
Tax  
Litigation  
Environmental

## Related Industries

Construction  
Real Estate  
Technology & Telecommunications

## Newsroom

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**Speech:** Ethically Handling FCA Investigations, Litigation and Whistleblowers

**In The News:** Williams Shares Insights On Cybersecurity With Managed Healthcare Executive

**Press Release:** Munsch Hardt Attorney Closes Two Middle-Market Transactions, Signs Up a Third in Less Than 30 Days

**Press Release:** Munsch Hardt Launches Blog, Brings Attention to the Latest in Immigration Law

**Speech:** Guide to the Department of Labor's FLSA Update

**In The News:** Billionaire Kelcy Warren Sued Over \$20 MM Cancer Center Loan

**In The News:** Bid Lawsuit Just Got Bigger

**In The News:** Female Powerbroker Q&A: Munsch Hardt's Deborah Perry

**In The News:** Dallas Law Firm Moves Into New Houston Digs

**In The News:** Memo Could Be Catalyst In Audit Battle

**Article:** Medical Office Space: A Legal Perspective