



## HEALTH CARE

“Clients turn to our team because we understand the compliance and business factors of structuring arrangements. They appreciate how we’ve staffed the matter with a smaller yet equally sophisticated group of health care attorneys.”

### WHO WE ARE

With the increasingly complex and constantly changing rules in our country’s health care system and even more significant changes appearing on the horizon, Kaufman & Canoles’ Health Care Group offers clients a wealth of business advantages. We have a deep understanding of the medical field, the nuances of anatomy and physiology, and the diagnostic and therapeutic tools used by health care providers. We strive to keep our clients informed and updated about regulatory changes and take a proactive approach that often enables them to avoid problems before they arise.

Our healthcare industry experience has been validated through long-standing relationships with many clients. In fact, some of our clients have been with Kaufman & Canoles for more than 70 years. We’ve grown from representing one hundred medical groups to 6,000 medical practices, plus other types of healthcare providers. Our group represents all of the largest health systems in the Hampton Roads region and many others throughout Virginia.

In addition, the principal members of our Health Care Group have been recognized as Virginia Lawyers Weekly’s Go-To Lawyers in Medical Malpractice, in *Virginia Business Magazine*’s Legal Elite and were selected for inclusion in *Best Lawyers in America* and *Chambers USA*.

### HOW WE HELP

We are experienced trial lawyers and are well-known in the industry for defending medical malpractice and disciplinary actions by state licensing boards for professional liability insurance companies, hospitals, and physicians. We also have broad experience in litigating criminal and civil cases relating to Medicare fraud and abuse, reimbursement disputes, and representation of medical staff.

We have successfully represented physicians and physician groups involving practice mergers and sales. We are frequently engaged on our client’s behalf in the internal issues of physician practices, physician recruitment, physicians employment agreements, covenants not to compete, shareholders agreements, stock purchase agreements, and deferred compensation arrangements.

## HOW WE HELP (CONT.)

And, when our clients need us, we're right there. We understand the critical issues that keep them up at night:

- How will we manage when our company has been served?
- What can we do to avoid ending up in the courtroom?
- How can we comply with the relevant regulations and statutes? What can we do to work through a complex and urgent situation?

Our lawyers provide solid advice and direction to help clients make those critical decisions for the best possible outcome.

We're there for our clients addressing third-party reimbursement, Medicare audits and appeals, antitrust issues, labor law issues, Medicare fraud and abuse issues, risk management and patient care issues, consent issues, and tax issues such as private inurement and benefits. When regulatory issues affect the health care industry, we counsel our clients on matters relating to Stark Law and certificates of public need.

Additionally, we have a reputation of advising risk management and helping our clients who may be facing HIPAA violations. We also provide policies, procedures, and counseling for staff taking health data while working from home. Should a data breach occur, we advise our clients on the corrective actions to mitigate damages.

## WHO WE REPRESENT

We represent a wide range of clients. The lawyers in our Health Care Group work directly with CEOs, Executive VPs, and Administrators. From individual physicians and physician groups, hospitals, health care joint ventures, and health maintenance organizations to preferred provider organizations, nursing homes, hospices, and home health agencies. In addition, we provide advice and counsel to freestanding laboratories, adult homes, continuing care retirement communities, durable medical equipment companies, physical therapy practices and companies, and physician practice management companies.

A large part of our health care business practice includes forming provider organizations and legal entities such as managed care contracting organizations, management service organizations, preferred provider organizations, and health maintenance organizations.

In addition to defending hospitals, physicians, nurses, and other healthcare providers in Virginia and North Carolina in medical malpractice litigation, we routinely counsel and represent them on a wide variety of risk management and regulatory issues, including:

- EMTALA counseling and defense litigation
- HIPAA and state law privacy and security counseling, breach response, claim defense, and OCR investigations
- Medical staff, peer review, and credentialing counseling and investigations/proceedings
- Administrative, licensure, and reimbursement proceedings, including Medicare, Medicaid, and third-party payor audits and disputes
- Policies and procedures to comply with applicable statutes, regulations, and accreditation requirements (e.g., consent to treatment, confidentiality, brain death, patient detention, DNR Orders, healthcare decision-making)
- Informed consent processes and forms
- Letters following incidents to provide protection under the attorney work product doctrine
- Staff interviews following incidents
- Preparation for and response to investigations/surveys by CMS and Department of Health

## WHO WE REPRESENT (CONT.)

- Adoption, surrogacy, Social Service placement and discharge of children to persons other than parents
- Mandatory and voluntary reporting to the Department of Health Professions
- Patients evading discharge and disruptive patients
- Violent and resistant patients
- Adequacy of consent for treatment (e.g., consent for minors, sterilization, imprisoned patients, etc.)
- Healthcare decision-making issues, including advance directives
- Do Not Resuscitate Order issues
- Legal proceedings regarding incapacitated patients (guardianship and judicial authorization/ consent)
- Legal proceedings regarding involuntary detention and treatment
- Motions to quash subpoenas for records and witnesses
- Preparation for court appearances and depositions where not a party to the litigation
- Medicare, Medicaid and third-party payor reimbursement audits and disputes
- Serving as private counsel where counsel has been appointed by an insurance company
- Provider interactions with patients and families in delicate circumstances or following poor outcomes (e.g., disclosures)
- Protection of confidential information through development of and assistance with the quality assurance and peer review processes
- Federal Patient Safety Organizations and corresponding privilege and confidentiality
- Pre-litigation assessments, including obtaining expert reviews, assisting with confidential investigations, and assessing early legal/procedural issues
- Defense of complaints and disciplinary proceedings before the Department of Health Professions (i.e., Board of Medicine, Board of Nursing, Board of Pharmacy)
- Investigations and reporting requirements of other governmental entities, such as law enforcement and FDA
- Reports to and investigations by Child Protective Services
- Futile and terminal care
- Presentation of in-services on professional liability or any of the above issues