



Kelly M. Hagemann

Partner

Healthcare, Insurance

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Profile

Kelly Hagemann is a partner in M&R's Orange County office with broad litigation experience and a focus on the behavioral healthcare industry.

Behavioral Healthcare

Kelly assists providers with all aspects of their businesses, ranging from day-to-day operations to high-risk events. These include:

- Mental health parity and access to care for adults and adolescents
- Marketing, referrals and compliance with the Eliminating Kickback in Recovery Act and similar state laws

- Management services and operations
- Fraud and abuse compliance, counseling and defense
- Sober living arrangements and client hardships
- Licensing and accusations
- Corporate practice of medicine issues
- Privacy, confidentiality and access to records
- Zoning and discriminatory actions by cities, counties and HOAs

Over the years, Kelly has gained extensive experience navigating clients through network agreement breaches, improperly-denied claims, Special Investigations Unit actions, illegal and unauthorized recoupments, and various pre-payment reviews and payor delay tactics. She has also tried and resolved numerous administrative actions brought by the California Department of Health Care Services and the California Department of Insurance.

Business Litigation

Beyond her work in the healthcare space, Kelly is also a lead trial counsel who has successfully litigated and arbitrated cases involving all aspects of business, including contract actions, trade secret misappropriation, business torts, lease and HOA disputes, insurance, partnership disputes and employment matters.

Pro Bono

Kelly has worked as a volunteer for California Lawyers for the Arts in Santa Monica, as well as the Public Law Center in Orange County.

Associated Industries

Healthcare, Insurance

Associated Practices

Commercial & Business Litigation, Regulatory & Administrative Law

Representative Matters

Mental Health and Substance Abuse Treatment Facility Compliance: Developed policies and procedures for mental health and substance abuse providers relating to marketing, referrals, and payor relationships to ensure compliance with federal and state regulations., Substance Abuse Treatment Litigation: Represented provider in action brought by major insurer alleging illegal kickbacks in exchange for the referral of specimens to toxicology laboratory. Obtained dismissal of action., Substance Abuse Treatment Administrative Hearings: Represented multiple detoxification facilities in administrative actions brought by the California Department of Health Care Services seeking revocation of clients' licenses., Arbitration: Represented a large physician group against a national laboratory corporation alleging breach of contract, fraud, and regulatory violations. The corporation was

contracted to establish and manage the clients' in-house pathology laboratory, but failed to comply with the Clinical Laboratory Improvement Amendments (CLIA), Stark Law, the False Claims Act, the anti-markup rule, and California's False Claims Act. Obtained a favorable result for client., Special Investigations, Recoupment Requests, and Audits: Represented numerous providers in recoupment requests and audits from major payors. Settled several seven-figure demands, obtained reimbursements for clients on outstanding claims, and extracted clients from Special Investigations Unit status., Reimbursement Dispute: Represented emergency medical transportation providers in litigation challenging Medi-Cal reimbursement rates. The Department of Health Care Services set clients' reimbursement rates without complying with federal and state requirements, and without considering clients' costs to provide those services., Independent Physician Association Reimbursement Dispute: Represented a large group of emergency physicians in litigation against an Independent Physician Association (IPA) to recover payment for services at physicians' usual and customary rates. The IPA wrongly withheld several hundreds of thousands of dollars refusing to pay usual and customary rates for Current Procedural Terminology (CPT) codes as billed. Obtained a favorable settlement on the clients' behalf, including payment of past amounts due, and structured agreed-upon contract rates going forward., and Professional Malpractice: Represented an attorney who was sued for malpractice, fraud, negligence, and elder abuse following modifications he made to a decedent's trust and pour-over will. The beneficiaries of testamentary documents challenged modifications and alleged a conspiracy between the client and another beneficiary. Obtained a complete defense judgment for the client following a lengthy bench trial. The court found that the client practiced competently, the fraud and elder abuse claims were completely unfounded, and there was no conspiracy.

Bar & Court Admissions

- State Bar of California
- State Bar of Texas
- U.S. District Court for the Northern, Central and Southern Districts of California

Professional Affiliations

- California Society for Healthcare Attorneys
- Orange County Bar Association (Health Care Law Section)

Community Involvement

- California Lawyers for the Arts in Santa Monica
- Public Law Center in Orange County

Education

- Pepperdine University School of Law, J.D.
- University of California, San Diego, B.A

Award & Special Recognition

Rising Star, *Super Lawyers Magazine* (2015)

Newsroom