

Health Care

M&R's Health Care Department knows the ins and outs of health care, and fully comprehends the long-term business goals and concerns of the health plans and health care providers we serve. Our attorneys are health care authorities, providing our clients seamless advice on legal and business issues.

Whether dealing with a health plan and insurer, a hospital, an assisted living facility, a provider, a third-party administrator (TPA), or other health care entities, we apply our intimate knowledge of health care to provide industry-focused expertise that caters to our clients' needs.

Our attorneys have an exemplary track record handling the full spectrum of complex health care litigation. We routinely counsel clients through shareholder disputes, payor-provider disputes management company disputes, coding issues, and fraud and abuse. M&R attorneys have successfully litigated many high-profile cases before state and federal courts, and regularly handle major class actions, having recovered tens of millions of dollars on behalf of our clients.

We also have expertise dealing with the most difficult transactions in addition to regulatory and day-to-day business matters. Our attorneys have represented clients in highly elaborate joint ventures and mergers and acquisitions of health care facilities and hospitals. We have also provided counsel on financing, leasing, entity formation and regulatory issues involving the Stark Law, the Anti-Kickback Statute, the Anti-Markup Rule and the False Claims Act. Additionally, M&R attorneys advise physician groups on issues related to ancillary services such as laboratories and imaging centers, and a wide range of corporate, labor and employment and commercial business issues related to the health care industry.

As an industry-focused firm, we are actively involved with the American Health Lawyers Association, Ambulatory Surgery Center Association, California Association of Health Plans, and California Society for Health Care Attorneys. We are frequently featured as speakers and guest panelists at events hosted by these and other health care organizations, and regularly publish articles in top health care trade publications.

REPRESENTATIVE MATTERS

Ambulatory Surgery Centers: M&R has been taking the lead on reorganizing the compensation of Surgeons in Ambulatory Surgery Centers to increase their profit share while successfully helping them navigate the rocks and shoals of the Anti-Kickback laws and the Ambulatory Surgery Safe Harbor attached to those law.

Acquisition: M&R represented the JOPAL Group in the \$120 million transfer of physical assets (TPA) of Workmen's Circle MultiCare Center, a 560-bed nursing facility, to a Delaware business trust — the first time the U.S. Department of Housing and Urban Development (HUD) has granted approval for the use of a Trust as a Borrower

Acquisition: M&R closed a leveraged buyout of a 499-bed nursing home in Manhattan (Dewitt Rehab) for \$105 million, including a \$90 million bridge to HUD from KeyBank. The property is located on the Upper East Side of Manhattan and has always been looked upon as the most significant site in Manhattan available for eventual redevelopment into condominiums M&R however counseled the client to operate it as a Nursing Home and not base their offer on a hope of condominium development and it is now the premier skilled nursing facility in New York State.

Commercial Lending: Represented a major manufacturer of medical devices in connection with \$60 million revolving credit and term loan facilities.

Defense of Physician in Regulatory Matter: Successfully represented a physician group in an investigation by the federal government regarding the purchase of non-FDA approved drugs from foreign sources. M&R helped develop an interpretation of the applicable licensing statutes to prove that the client was misled into purchasing the drugs from an unlicensed source, which appeared to be properly licensed by more than one state, to sell the medications at issue.

DIP and Exit Facilities: Represented a provider of national healthcare services, as borrower, in a \$250 million debtor-in-possession financing and a \$515 million exit financing.

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Government Investigation: Successfully represented an emergency physician group being investigated by the Office of Inspector General for coding and billing irregularities, and other health care fraud as a result of a sealed qui tam suit filed under the False Claims Act. M&R negotiated with the Assistant U.S. Attorney to decrease the scope of the government subpoena, and retained experts to review the group's billing and coding to corroborate the absence of fraud and abuse. We successfully defended the group, which resulted in the government choosing not to intervene in the qui tam suit, and the action being dismissed.

Independent Physician Association Reimbursement Dispute: Represented a large group of emergency physicians in litigation against an IPA to recover payment for services at physicians' usual and customary rates. The Independent Physician Association (IPA) wrongly withheld several hundreds of thousands of dollars refusing to pay usual and customary rates for Current Procedural Terminology (CPT) codes as billed. M&R obtained a favorable settlement on the clients' behalf, including payment of past amounts due, and structured agreed-upon contract rates going forward.

Mental Health Facility Acquisition: Represented both buyers and sellers in the acquisitions of mental health facilities across the country.

Mergers and Acquisitions: Led a team of lawyers in the roll up of medical service providers, including the purchase of an ambulatory service provider and an in-home care provider. Negotiated the terms of sale, the purchase agreement, organized a new holding company and assisted in the negotiation for new debt and equity for the combined firm.

Nursing Home & Rehabilitation Facility - Refinance: Counseled client in the \$13 million refinance of Peninsula Nursing Home and Rehabilitation Facility in New York. This was a rather complicated matter in that a previous purchaser acquired a hospital and nursing home, broken up as two parcels, and kept the hospital while putting the nursing home, which was physically attached to the hospital, up for sale. Our client purchased the nursing home. During this process, we encountered several legal obstacles, not the least of which was an environmental issue related to construction debris and chemical traces at the nursing home site. M&R attorneys worked diligently with an environmental study company to revisit their report in light of new facts, thereby clearing any environmental roadblock and enabling the client to refinance.

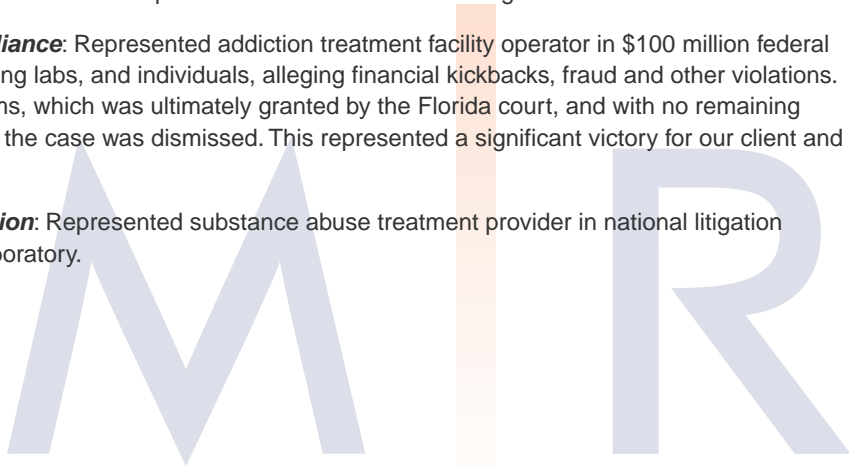
Residential Long-Term Care - HUD Refinance: M&R helped our client close on the refinance of Middletown Park Manor Rehabilitation and Health Care Center, consisting of a \$23,240,000 mortgage insured by the Department of Housing and Urban Development (HUD). This matter commenced in March 2010 with the purchase of the 240-bed facility by one of our long-time clients. After two refinances and a workout of the original purchase money financing, the project finally stabilized and was able to obtain a 35 year self-amortizing HUD mortgage with no personal guarantees and, most notably, a return of a substantial portion of the client's original equity.

Substance Abuse Treatment Facility Administrative Hearing: Represented detoxification facility in administrative action brought by the California Department of Health Care Services seeking revocation of client's license.

Substance Abuse Treatment Facility Compliance: Developed policies and procedures for substance abuse providers relating to marketing, referrals and payor relationships to ensure compliance with Federal and state regulations.

Substance Abuse Treatment Facility Compliance: Represented addiction treatment facility operator in \$100 million federal lawsuit against several treatment centers, testing labs, and individuals, alleging financial kickbacks, fraud and other violations. M&R filed a motion to dismiss the federal claims, which was ultimately granted by the Florida court, and with no remaining jurisdiction over the plaintiff's state law claims, the case was dismissed. This represented a significant victory for our client and for the addiction treatment community.

Substance Abuse Treatment Facility Litigation: Represented substance abuse treatment provider in national litigation involving alleged kickbacks from toxicology laboratory.



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AREAS OF EXPERTISE

Ambulatory Surgery Centers

M&R attorneys are intimately familiar with the business, tax and legal strategies for structuring corporate and real estate ownership, investment and employment for Ambulatory Surgery Centers (ASC). We offer cutting-edge advice to business and physician investors to help them successfully navigate the evolving regulatory environment. Our attorneys counsel owners and practitioners on ways to increase profitability and owner accountability while remaining compliant with applicable law, including the federal Anti-Kickback Statute, the federal physician self-referral prohibition (Stark Law), Affordable Care Act (ACA) and related state laws.

Our ASC practice encompasses a broad range of services offering an integrated team approach to business goals. We represent both single-specialty and multi-specialty centers in matters including: corporate formation and governance; contracts; financing; mergers and acquisitions; shareholder and operating agreements; real estate transactions; tax structuring; labor and employment; service line outsourcing; profit allocation structuring; HIPAA and corporate compliance.

Developing and operating a successful ASC involves a number of complex and interdependent legal issues, which must be reconciled with business goals, ranging from state licensure requirements to real estate acquisitions to owner incentives. M&R attorneys offer creative solutions to regulatory and business challenges, providing strategic advice focused on specific issues or goals, with the participation of specialized counsel when needed. With over 100 years of combined experience in the health care industry, M&R attorneys work across disciplines to achieve unparalleled results for their clients.

M&R is actively involved in the Ambulatory Surgery Center Association (ASCA), and often presents to industry stakeholders.

Ancillary Services

We are well-versed in all the various state and federal regulatory requirements regarding ancillary service providers. Our Health Care attorneys represent clients across the wide gamut of ancillary services including those of a diagnostic, therapeutic and custodial nature. We routinely represent suppliers of laboratory tests, pharmacies, home infusion and hospice care providers, skilled nursing facilities, ambulatory surgical centers and radiologists, among others.

Assisted Living & Senior Housing

Senior and assisted living facilities are experiencing challenges due to industry growth, regulatory pressure, and increased consumer demand. Drawing from M&R's in-depth experience across multiple practice areas, our Health Care Department provides full-service representation to senior housing and assisted living facilities, helping providers thrive in the changing marketplace. We work with a full spectrum of stakeholders, including: developers, banks, not-for-profits, and facility owners.

Clients rely on M&R to provide advice on financing, regulatory compliance, labor issues, and general business matters. We have expertise in supporting complex financial transactions, including the purchase and sale of assisted living and senior housing businesses. We assist clients in deal structuring, performing due diligence and preparing and negotiating the necessary financing documentation. Our team has worked on sophisticated and high-stakes financing in the industry, and offers particular expertise with regard to the Immigrant Investor Program (EB-5) and Medicaid reimbursement matters.

The M&R team understands the various operational hurdles that must be cleared in order to successfully manage an assisted living or senior housing facility. We advise clients on day-to-day business issues, as well as key documentation such as management, admission, resident and operating agreements. Our team also counsels on a variety of employment law issues, ranging from employee compensation and benefits to discrimination complaints to non-competition agreements.

Business Formation, Licensure & Certification

We assist medical professionals in determining the optimal business structure for their organizations and customize ownership agreements. Because health care is highly regulated, our attorneys regularly advise clients on state licensing law and federal requirements, and provide representation before state licensing boards. We counsel national and regional providers on all certification and licensure matters.

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Financing Transactions & Leasing Agreements

We navigate clients including hospitals, skilled nursing facilities, urgent care facilities, ambulatory surgery centers, ambulance companies, assisted care facilities, ancillary service providers, physician groups, medical groups, group purchasing entities and management companies through sophisticated financial transactions. We have particular expertise with medical group formation. Further, we have handled trade finance facilities, commercial paper, conduits, various securitization vehicles, asset-based financing, leasing transactions, loans, revolvers, turn around projects, buyouts, compliance, formation and licensing for a myriad of medical facilities. We draft and negotiate lease agreements for all our health care provider clients. We perform due diligence and counsel clients on the nuances of leasing medical facilities.

Fraud and Abuse Compliance Program Development

Health care fraud and abuse laws can be complex and tricky. We design and implement compliance programs that mitigate the potential for violating Stark Law, the False Claims Act, the Federal Anti-Kickback Statute, and other state laws and federal health care regulations. Further, we audit and conduct internal investigations to ensure these programs work effectively.

We ensure our clients are in full compliance with the Health Insurance Portability and Accountability Act (HIPAA), which strives to protect patient privacy and security. Violating HIPAA can lead to government investigations, civil and criminal liability, and financial devastation. Our attorneys stay abreast of increased enforcements, modifications and rule changes to this complex area of the law.

Medi-Cal

We advise and litigate on behalf of providers and owners on the nuances of California's constantly evolving Medical Assistance Program.

Mergers & Acquisitions

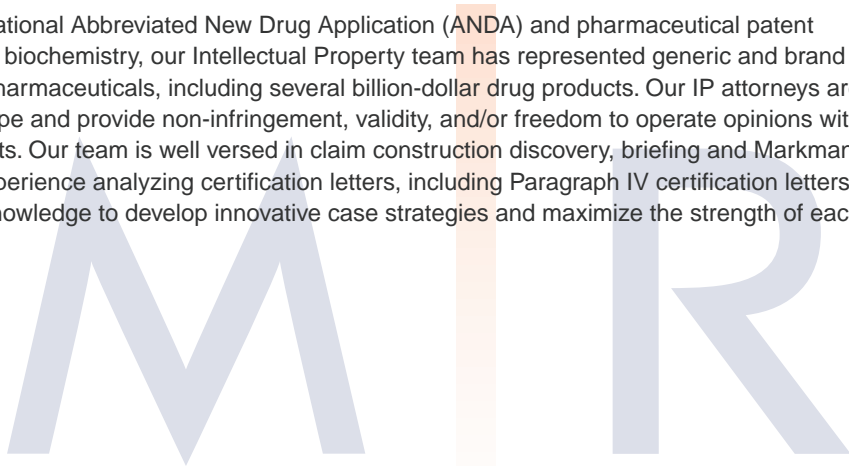
We routinely structure, negotiate and close complex M&A transactions involving health care entities and facilities. Acquiring or selling a medical facility requires extensive due diligence in complying with regulatory requirements and adherence to the proper transfer of Medicare billing privileges and certificates of need. Further, Stark and other fraud and abuse laws often come into play. Our Health Care attorneys navigate clients through these complex transactions, advising on numerous sales and acquisitions of hospitals, ambulatory surgery centers, nursing homes, assisted living facilities, urgent care clinics and other medical facilities.

Partner Disputes in Health Care Business

Partnership disputes can be caused by many factors, such as financial disagreements, falling revenue, succession issues, corporate governance issues and conflicts in vision over the business's strategic direction. We work on behalf of our health care clients to efficiently resolve partner disputes and are tenacious litigators when amicable resolutions are not possible.

Pharmaceutical Patents

We offer a comprehensive national and international Abbreviated New Drug Application (ANDA) and pharmaceutical patent litigation practice. With a strong background in biochemistry, our Intellectual Property team has represented generic and brand companies in disputes relating to numerous pharmaceuticals, including several billion-dollar drug products. Our IP attorneys are routinely asked to evaluate the patent landscape and provide non-infringement, validity, and/or freedom to operate opinions with respect to pharmaceutical patents and products. Our team is well versed in claim construction discovery, briefing and Markman hearing strategies. We also have extensive experience analyzing certification letters, including Paragraph IV certification letters. M&R combines legal acumen and technical knowledge to develop innovative case strategies and maximize the strength of each claim.



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Physician Defense

We have a proven track record of defending physicians before various medical and dental boards in administrative proceedings, as well as the Board of Pharmacy.

Reimbursement

The economics of reimbursement impacts every aspect of a health care business. We are renowned authorities in representing national and regional providers in billing disputes and obtaining maximum reimbursements. We understand that health care regulations are constantly evolving and provide sophisticated counseling on reimbursement issues arising under Medicare, Medicaid and other governmental programs. We advise and assist clients in mitigating False Claims Act risks. Our Health Care attorneys guide a wide array of health care providers through complex issues relating to every area of billing, coding and reimbursement. We also advise hospitals on their transfer and admission procedures, and have been successful in securing reimbursements on their behalf.

Skilled Nursing Facilities

The M&R team applies our knowledge of the skilled nursing facility landscape to provide industry-focused expertise that caters to our clients' needs. Our team regularly handles the most difficult and complexly structured transactions that require out-of-the-box thinking, in addition to the day-to-day business matters of skilled nursing facilities. And when litigation becomes necessary, we fiercely advocate on behalf of our clients, particularly in reimbursement matters and fraud and abuse defense, where our insight into the inner workings of the skilled nursing industry affords us a distinct edge.

By staying up-to-date on evolving laws and regulations affecting skilled nursing facilities, our team solves compliance problems and helps clients successfully navigate audits and investigations. We also train clients on compliance and regulatory issues, so that they may avoid future pitfalls. We conduct thorough investigations to help avoid audits and, when necessary, we have successfully defended audits. The M&R team routinely works with buyers, sellers, banks and operators on skilled nursing facility financing deals for acquisitions, renovations and construction. Our attorneys assist with loan preparations, equity securitization transactions, equity funds and partnership syndications of facilities.

We also help skilled nursing facilities with licensing issues, collection issues, admission agreements, resident handbooks, and policies and procedures. Our team provides advice and structuring under the Bundled Payments for Care Improvement (BPCI) initiative, Medicare Access and CHIP Reauthorization Act (MACRA) and Medicaid Long-Term Care (MLTC) with an ability to help navigate the waters into shared risk and shared savings.

One of our partners is on the Board of Directors of a nursing home based in New York, and serves as chair of its Audit and Compliance Committee.

Substance Abuse Treatment & Sober Living Facilities

We represent a variety of substance abuse treatment providers and sober living facilities in ensuring state and federal regulatory compliance, resolving payment disputes, assisting with payer audits, determining medical necessity, and by advising concerning marketing arrangements and industry referrals. In addition, our Health Care attorneys regularly counsel facility owner/operators and related laboratories regarding fraud and abuse compliance policies and procedures. We regularly represent providers at administrative hearings and before state and federal courts throughout the country, helping our clients resolve complex disputes and protecting their underlying business interests.

Urgent Care

M&R attorneys are immersed in the rapidly growing Urgent Care sector. We regularly speak on pressing legal issues at urgent care conferences and report on important matters in trade publications, as well as through Client Alerts and the M&R Health Care Blog. Our deep industry knowledge gives M&R an advantage in counseling on formation, state licensure, reimbursement considerations, and the regulatory requirements of the Emergency Medical Treatment & Labor Act (EMTALA). We represent both physicians and private investors on a national scale in the establishment, and sale, of urgent care centers—both through

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mergers and their affiliation with other healthcare facilities. Our attorneys counsel urgent care centers on employment matters, contracting, fraud and abuse, and risk management. In addition, we strategically and aggressively litigate cases when disputes arise.

