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WHERE THE JOBS ARE: LEGAL CAREERS WITH HEALTHCARE PROVIDERS »

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While U.S. hospitals and other healthcare providers suffered mass layoffs in the last several years, the number of attorneys who work for healthcare provider organizations bucked this trend, thanks to two major factors: (1) The barrage of sweeping new laws and regulations governing healthcare provider activities; and (2) the accelerating pace of change represented by new technologies and innovations in delivery of health services that force providers to play a constant game of "catch-up." The increasing number of lawyers working for healthcare providers is supplemented by the increasing number of healthcare legal and law-related offices that offer legal career opportunities.

Healthcare Provider Demographics

Hospitals

There were 5,815 hospitals in the United States as of 2008, according to the most recent **American Hospital Association** survey. Just over 1,600 hospitals have 200 or more beds. This is an important "tipping point" for hospitals as far as attorney hiring is concerned. As a very general rule, hospitals of this size tend to have their own legal counsel offices. Moreover, as the number of beds increases, the number of hospital offices in which lawyers work also increases. I will elaborate on that in the next section.

Healthcare providers come in many organizational structures in addition to hospitals. The numbers are as follows:

- 405 Health Maintenance Organizations (HMOs)
- 16,100 Nursing Homes
- 4,500 Dialysis Centers
- 9,300 Home Health Agencies
- 3,300 Hospices
- 10,000 Ambulatory Surgery Centers

This is not a complete list, but rather a hierarchical list (most likely to least likely) of the non-hospital healthcare provider organizations that might employ attorneys. However, hospitals are by far the most likely legal employers.

The Work and the Offices

This section focuses primarily on hospitals and, to a lesser extent, on HMOs. Other healthcare providers rely primarily on outside counsel for their legal needs.

In-House Counsel Offices

The range of issues handled by provider in-house counsel offices is vast and growing, and could include all of the following:

- Accreditation
- Acquisitions
- Affiliations
- Antitrust
- Bioethics advice
- Business planning

- Certificates of Need
- Civil and administrative defense
- Claims against the provider
- Clinical risk assessment
- Clinical trials
- Compliance
- Contract negotiations and drafting, procurement and grants
- Corporate Finance
- Corporate governance
- Corporate structure and organization
- Credentialing
- Data privacy
- Divestitures of health facilities and businesses
- Food and drug matters
- Government relations
- Guardianships
- Healthcare fraud
- Healthcare technology matters
- HIPAA and privacy
- Hospital/physician contractual relationships
- Insurance regulation
- Intellectual property matters
- Interaction with regulators
- Internal and government investigations
- Joint ventures
- Labor, employment, and employee benefits
- Legal audits for healthcare organizations
- Licensing of facilities and medical staff
- Litigation
- Litigation management
- Managed care contracting
- Managed care defense
- Management and staff training
- Medical staff matters
- Medicare/Medicaid/private insurance
- Mental health law
- Patient consent
- Patient safety
- Peer review
- Physician contracting and recruitment
- Practitioner defense (medical malpractice)
- Product offerings
- Real estate
- Regulatory counseling
- Restructuring
- Representing healthcare providers
- Risk management
- Stark I, II and III (physician self-referral)
- Tax-exempt status
- Technology transfer
- Telemedicine
- Transactions

The potential legal practice areas are so numerous that there is still a considerable reliance on outside counsel for specific legal needs. However, the trend is in the direction of bringing more and more legal responsibilities in-house.

Another very important trend is the separating out of certain specific responsibilities from the general counsel's office and placing them in other provider offices. This movement is largely the result of the massive increase in regulatory scrutiny of healthcare providers by the federal government and the corresponding volume of reporting requirements.

The offices that follow are the most likely to be found separate from the general counsel's office. They are discussed in descending order of the likely number of offices and job opportunities.

Regulatory Compliance

The compliance function may sometimes be combined with ethics and/or risk management. Each of these will be described separately in this blog.

The federal Bureau of Labor Statistics says that compliance is the fastest growing profession in corporate America. The compliance function has been growing steadily for 15 years. What was once an area of responsibility has now become a profession in its own right.

The major impetus for the development of healthcare compliance was the enactment of the Health Insurance Portability and Accountability Act (HIPAA) in 1996.

A recent survey by the [Health Care Compliance Association](#) found that 74 percent of healthcare providers already have a compliance office separate from their general counsel office.

The [U.S. Sentencing Commission](#) recently amended its Organizational Sentencing Guidelines in a way that elevates the centrality of the compliance function even higher. Effective November 1, 2010, organizations may now receive a reduction in fines and other penalties even if their senior executives are involved in the wrongdoing. Reductions will only be considered if "individuals with operational responsibility for the compliance and ethics program have direct reporting obligations to the organization's governing authority or appropriate subgroup thereof."

Compliance programs exist to prevent, detect and correct wrongdoing. In addition, they promote ethical conduct and a commitment to compliance with the law.

Ethics

The major reason why a healthcare provider ethics program might be distinct from its compliance program is if the provider is also a research institution, in which case its adherence to bioethical principles and standards looms large. The specialized expertise required of bioethicists means that general healthcare compliance professionals are not usually equipped to deal with bioethics concerns as well.

The range of bioethics issues confronting healthcare providers is expanding by leaps and bounds, and now includes such areas as human subject research, genetic privacy, research integrity, patient rights, disability and rehabilitation ethics, mental health ethics, neuroethics, information disclosure and stem cell research, among others.

Risk Management

Healthcare risk managers have two principal missions: (1) protecting their healthcare provider employers; and (2) providing a safe environment for patients. The protection mission focuses chiefly on reducing medical errors. Their most important legal functions are staying current with federal and state laws and regulations, identifying potential liability exposures and applying knowledge of insurance and claims, understanding settlement procedures,

A large part of the job is performing investigations and analyses, evaluating risks in provider office procedures and policies, and taking the necessary steps to mitigate those risks or eliminate them altogether. Insurance plays a large role in healthcare risk management.

Risk managers are in the enviable position of having to know everything about what goes on in the provider organization and interacting with every department. That places them in a central position with respect to job stability and security. They come as close to being indispensable employees as it is possible for anyone to be.

Contracts and Procurement

Healthcare provider organizations must purchase a vast quantity of goods and services. In addition, the most dynamic aspect of provider contracting has to do with negotiating, documenting and administering business relationships between hospitals, HMOs and medical centers and physician groups.

While almost three-quarters of hospital purchasing is outsourced to group purchasing organizations, the remainder is disproportionately concentrated on those areas over which providers need to exercise the most control, such as provider relationships with physician groups.

"Greenhealth" products are becoming very important to provider contracting and procurement offices because they can help realize significant savings.

One of the law-related areas in which contracting and procurement offices become involved is in responding to Medicare investigations and disallowances, as well as bid-protest and other contract-related litigation.

Ombudsman

Most hospitals and other large providers have an ombudsman on staff. Larger institutions have an entire ombudsman office. Some institutions combine this function with, or fold it into a patient advocacy office (see below).

This ombudsman acts as an advocate between the patient and the hospital administration, or between the patient and an insurance plan, to represent and speak for the patient if a dispute arises. The range of issues that can come before an ombudsman is enormous and can encompass every aspect of a patient's hospital stay.

Patient Advocacy

Patient Advocacy is an emerging career, "up-and-coming" according to both *U.S. News & World Report* and *Entrepreneur* magazine. Healthcare providers have slowly begun to react to these external advocates by appointing internal ones in an attempt to head off any disputes early on and avoid administrative hearings and litigation.

Patient Advocates intermediate for patients, acquiring the highest quality, most accurate health care available to them, navigating the red tape and sometimes overwhelming bureaucracy of our nation's health care system. This includes dealing with the three primary players in the healthcare system: providers (physicians), payers (insurance companies), and the hospitals.

Patient advocacy requires knowledge of the healthcare system, some medical matters, and legal avenues and remedies. Advocates may review diagnoses, treatment options, medical records and test reports; monitor the patient at the bedside in a hospital or be a good choice for a healthcare proxy; advise patients and their families on insurance and billing matters; negotiating denials of claims; and Medicare supplemental plan decisionmaking, among other issues.

Privacy

While separate privacy offices are few at present, and up to now have focused most of their attention on HIPAA matters, the impetus toward digital medical records, telemedicine and e-health are certain to increase the importance of this function. In response to these developments, the number of privacy offices has gone way up in 2010.

The principal function of provider privacy offices is to deal with requests for patient information. They also review privacy policies; train staff on good privacy practices; develop and update privacy policies, forms and manuals; and handle complaints of privacy violations.

A Brief Word about Compensation

Compensation for healthcare provider legal and law-related positions varies considerably depending on (1) the specific office, (2) the size of the institution, (3) the scope of responsibilities, (4) the location of the provider, whether urban, suburban or rural, and (5) the overall living costs associated with the region.

Attorneys who work in in-house counsel offices will almost always earn more than lawyers in law-related offices or positions, with the exception of the most senior positions in the latter offices. The next most highest compensated individuals work in compliance, ethics and risk management offices.

Exploiting the Opportunity

Healthcare is one of the most rapidly growing areas of the U.S. economy and, with the baby boom population "aging up," this growth is likely to accelerate and continue for many years to come (the last baby boomer will turn 65 in 2029). This means that all of the areas discussed above will continue to grow and grow substantially. Moreover, as healthcare delivery becomes more complex, the demand for legal expertise will expand.

There are a number of programs that you can take advantage of that will boost your credentials for one of these positions and that will enhance your law degree. I have not included LLM programs in the highly selective list below because they are expensive and very time-consuming.

Health Law

DePaul University College of Law - Certificate in Health Law

Seton Hall University Law School - Online Graduate Certificate in Health and Hospital Law (online)

Compliance

George Washington University - Graduate Certificate in Healthcare Corporate Compliance

Hamline University School of Law - Health Care Compliance Certification Program

Health Care Compliance Association - Certified in Healthcare Compliance Professional (CHC); Healthcare Research Compliance Certification (CHRC); Certified in Healthcare Compliance Fellowship (CHC-F)

Ethics

[Fordham University - Graduate Certificate in Health Care Ethics](#)

[University of New Mexico - Health Care Ethics Certificate Program](#)

Bioethics

[Loyola University Chicago - Certificate in Bioethics and Health Policy \(online\)](#)

[Union Graduate College - Mount Sinai School of Medicine - Certificate in Bioethics \(Specialization in Clinical Ethics; Specialization in Research Ethics; Specialization in Health Policy & Law](#)

Contracts & Procurement

[National Contract Management Association - Certified Commercial Contracts Manager; Certified Professional Contracts Manager](#)

[University of Virginia - Graduate Certificate Program in Procurement and Contracts Management](#)

Privacy

[Boston University- Medical Information Security & Privacy Graduate Certificate](#)

[Mountain States Employers' Council - HIPAA: Privacy Rules and Portability](#)

Risk Management

[American Hospital Association Certification Center- Certified Professional in Healthcare Risk Management \(online\)](#)

[American Society for Healthcare Risk Management - Barton Certificate Program in Healthcare Risk Management](#)

Patient Advocacy

[Cleveland State University - Patient Advocacy Certificate Program \(online\)](#)

[Professional Patient Advocate Institute - Certificate in Professional Patient Advocacy \(online plus a New York City workshop\)](#)

Ombudsman

[International Ombudsman Association - Organizational Ombudsman Certificates](#)

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