



# 2009 HEALTH LAW FORUM


**BAIRD HOLM** <sup>LLP</sup>  
ATTORNEYS AT LAW

**Friday, November 20, 2009**  
Marriott Regency  
10220 Regency Circle / Omaha, Nebraska

 *Governance Update: Conflicts Of Interest, Form 990, And Other Governance Guidance*

 *No Good Deed Goes Unpunished: The Limits and Possibilities of Benefits, Discounts and Inducements for Patients*

 *The Nitty Gritty on Hospital Practice for Non-Physician Practitioners*

 *Avoiding Construction Contract Problems*

 *Immigration Faux Pas – Consistent Problem Areas for Health Care Employers*

 *Pay For Call – Learning On The Fly*

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**2009 HEALTH LAW FORUM**

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Registration is available  
online at [bairdholm.com](http://bairdholm.com)

20189 NE Woodmen Tower, Omaha NE 68101

Company \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

The following people will attend the forum: (please print or type)

Name and Title	E-mail address	Will attend lunch
1. _____	_____	Yes <input type="checkbox"/> No <input type="checkbox"/>
2. _____	_____	Yes <input type="checkbox"/> No <input type="checkbox"/>
3. _____	_____	Yes <input type="checkbox"/> No <input type="checkbox"/>
4. _____	_____	Yes <input type="checkbox"/> No <input type="checkbox"/>

Please register by November 18 online at [www.bairdholm.com](http://www.bairdholm.com) or by mail to Baird Holm, attention Ashley Edwards, 1500 Woodmen Tower, Omaha, NE 68102. For further information, please contact Ashley at 402.636.8324.

The Forum and Luncheon are complimentary services to our clients and friends. For room reservations, please contact the Marriott directly at 402.399.9000 and mention the Baird Holm block rate, \$115 per night.

This program has been approved for 5.5 hours of CLE credit, which may be credited against the continuing legal education requirement of 15 clock hours per year, established by Rules 41.3 and 42.2 of the Iowa Supreme Court.

CLE credit approval is pending from the state of Nebraska.

## SCHEDULE

We welcome and encourage you to invite members of your Board of Trustees/Directors to this educational opportunity.

## Registration and Continental Breakfast

7:30

## Welcome and Introduction

8:15

## Governance Update: Conflicts Of Interest, Form 990, And Other Governance Guidance

8:30

John Holdenried, Andrew Kloeckner

What do CMS, the OIG, the IRS, state attorneys general, and the courts mean when they talk about good governance and its lapses in health care? This session will address several hot topics of interest relative to good governance – conflicts of interest, gathering and reporting governance information for the Form 990 – 2008 (and for the updated Form 990 – 2009), impact of governance on false claims liability, special governance-related issues that impact public hospital boards, and the role of governance on community benefit.

## No Good Deed Goes Unpunished: The Limits and Possibilities of Benefits, Discounts and Inducements for Patients

9:15

Julie Knutson, Michael Chase

Gifts, discounts and free services offered to patients have been the subject of statutes, Special Advisory Bulletins and numerous OIG Advisory Opinions. Clearly, the OIG has concerns about offerings to Medicare and Medicaid program beneficiaries, but after all the guidance, what can be provided? Are health fairs compliant with the guidance? May a hospital provide transportation to patients with hardships in accessing care? Is it permissible to provide an athletic trainer for high school sporting events? What about private or self-pay patients? This session will discuss the current state of the law and suggest rules of thumb for this frequently occurring issue.

## Break and Refreshments

10:00

## The Nitty Gritty on Hospital Practice for Non-Physician Practitioners

10:15

Barbara Person

Who can sign what? If they are LIPs, should they be Medical Staff members? Does that mean they get a vote? Is co-signature meaningful or should we just require chart review? What kind of privileges should be granted? What's in it for the supervising or collaborating physician? What kind of liability should the physician worry about, and how can he/she limit it? What documents are required to credential non-physicians? When do we have to bill under the physician's number? Or is that a false claim? Are their services "incident to" the physician's, and/or can we bill other personnel's services as "incident to" theirs? This session will review Iowa and Nebraska professional and hospital licensure laws, Medicare Conditions of Participation, Medicaid coverage regulations to discover the answers to these and other questions, as well as making suggestions for medical staff bylaws and hospital policies to clarify the scope and authority of nonphysician practitioners in the hospital setting.

11:00

## Avoiding Construction Contract Problems

Scott Dye, Gretchen Twohig

Standard form contracts are customary in the construction world, but do you really know what you are signing? This session will address common pitfalls and problems with standard form construction documents, including contractual statutes of limitations, mandatory arbitration and mediation provisions, and non-joinder clauses. We will also discuss managing the bidding and construction process from the health care owner's perspective and suggest strategies to protect your interests and help assure a successful project.

## Question and Answer Period

11:45

All Presenters

## Lunch

12:00

## Latest Word

1:00

Panel of Baird Holm Attorneys

Our ever-popular review of significant state and federal developments from the past year certain to impact clients.

## Break and Refreshments

2:00

## Immigration Faux Pas – Consistent Problem Areas for Health Care Employers

2:15

Scott S. Moore, Amy Erlbacher-Anderson

Immigration law is highly complex and extremely unforgiving of even the most minor of mistakes. Such mistakes can result in fines for the employer, criminal prosecution of personnel and seizure of employer assets, and deportation for the employee and his/her family, even when honestly made. Depending on an employee or an employee's lawyer to do what is in the best interest of the employer is often a costly mistake. This session will address the errors made by employers, and how to avoid the traps which can cause the loss of a valuable candidate.

## Pay For Call – Learning On The Fly

2:45

Vickie Ahlers, Kelly Clarke

Paying for call was rarely discussed ten years ago; today it is commonplace. But recent OIG Opinions confirm that the landscape of paying for call is anything but settled. This session will look at variations in methodology in light of the legal constraints that shape them – anti-kickback, Stark, tax and reimbursement limits, to name a few. The speakers will offer do's and don'ts and recommend contracting strategies.

## Cocktail Reception

3:30

## SPEAKERS

**Vickie Brady Ahlers** received her Juris Doctor, *summa cum laude*, in 1998 from Southern Illinois University School of Law. She is currently a Board member and the Past President of the Nebraska Chapter of HFMA.

**Michael Chase** received his Juris Doctor with certificates in Health Law Studies and International and Comparative Law from Saint Louis University School of Law in 2009. He also received a Masters of Health Administration, with distinction, from Saint Louis University School of Public Health in 2009.

**Kelly Clarke** received his Juris Doctor from the University of Colorado in 1970. He is a former member of the Board of Directors and Past President of the American Health Lawyers Association and a past governing board member of the ABA Health Law Forum.

**P. Scott Dye** is a partner in the firm's Financial Transactions Section. He received his Juris Doctor in 1971 from Vanderbilt University School of Law. His practice is concentrated in the areas of real estate and construction law.

**Amy Erlbacher-Anderson** is a member of the firm's Labor, Employment, and Employee Benefits Law Practice. She received her Juris Doctor, *magna cum laude*, from Creighton University School of Law in 1994. She practices primarily in the areas of employee benefits and immigration and is an active member in the American Immigration Lawyers Association.

**John Holdenried** received his Juris Doctor, *cum laude*, from the University of Michigan Law School in 1975. John is the Program Chair of the annual Tax Issues for Healthcare Organization program sponsored by the American Health Lawyers Association. He is a member of the IRS Council for the Central/Mountain Region (Tax-Exempt and Governmental Entities) and the Healthcare Roundtable for Corporate Counsel. He is the author of "Tax and Tax Exemption in Transactions," Health Law Practice Guide, American Health Lawyers Association.

**Andy Kloeckner** received his Juris Doctor, *magna cum laude*, from Creighton University School of Law in 2006. He also holds a B.S.B.A. in Accounting, *summa cum laude*, from Creighton University.

**Julie Knutson** received her Juris Doctor, *magna cum laude*, from Creighton University School of Law in 1993. Prior to joining the firm, Julie worked in the health care industry in various management capacities. She is currently a member of the Health Care Compliance Association and serves on the Executive Committee of the Iowa Society of Hospital Attorneys.

**Scott S. Moore** is a member of the firm's Labor Employment and Employee Benefits Law Practice. He received his Juris Doctor, with high distinction, from the University of Nebraska College of Law in 1992. Scott is a member of the American Immigration Lawyers Association and is a former Committee Chair and Board Member of the Human Resource Association of the Midlands.

**Barbara Person** received her Juris Doctor, with distinction, from the University of Nebraska College of Law in 1985. Barbara served as a Board member (1993-1999) and as President (1997-1998) of the Nebraska Chapter of HFMA. Barbara works extensively in medical staff, EMTALA, physician contracting and licensure and disciplinary matters.

**Gretchen Twohig** is a partner in the Firm's Litigation Section and Real Estate Practice Group. She received her Juris Doctor with distinction from the University of Nebraska College of Law in 2002. Gretchen focuses her practice on complex litigation involving commercial contracts, business torts, ERISA claims, and real estate and construction disputes. She is a LEED (Leadership in Energy and Environmental Design) Accredited Professional.