

2009 WL 6057070 (D.Ariz.) (Expert Report and Affidavit)
United States District Court, D. Arizona.

SAGUARO MEDICAL ASSOCIATES, P.C.,

v.

Banner HEALTH.

No. 08CV01386.

April 17, 2009.

(Report or Affidavit of Alan S. Goldberg)

Name of Expert: Alan S. Goldberg

Area of Expertise: Legal & Insurance >> Insurance Practices & Standards

Representing: Plaintiff

Jurisdiction: D.Ariz.

I have been asked by Lonnie J. Williams, Jr., Esq. of the law firm Quarles & Brady LLP, One Renaissance Square, Two North Central Avenue, Phoenix, Arizona 85004-2391, to consider certain circumstances involving allegations by Banner Thunderbird Medical Center D/B/A Banner Thunderbird Medical Center, Glendale, Arizona (Banner Thunderbird) relating to Rakesh Malhotra, MD, during the time Dr. Malhotra practiced medicine at Banner Thunderbird as a member of Saguro Medical Associates, P.C. (Group), and regarding the Administrative Simplification subtitle of the federal law known as the Health Insurance Portability and Accountability Act of 1996 as amended (**HIPAA**); and more particularly whether the **HIPAA** final privacy rule promulgated thereunder is implicated because of Dr. Malhotra's actions involving certain access to, and certain sharing by Dr. Malhotra with Banner Thunderbird employees of, patient demographic information involving three patients. My opinion, as discussed in detail below, is that such actions of Dr. Malhotra did not violate the provisions of **HIPAA** and/or the Banner Thunderbird Notice of Privacy Practices published pursuant to **HIPAA** and referenced below.

This report contains my opinions and conclusions as an expert. This report is not intended to be and does not constitute a legal opinion under the law of any jurisdiction including the law of the State of Arizona and is not to be relied upon by anyone other than in connection with the matter for which Mr. Williams requested this report from me.

The information contained in this report appears in the following order and sections:

I. Complete Statement of All Opinions I Will Express and the Basis and the Reasons for Them

II. Data or Other Information Considered In Forming My Opinions

III. Exhibits That Will Be Used to Summarize My Opinions

IV. My Qualifications

1. My Education and Experience

2. Selected List of My Publications, Citations, Quotations, and Presentations

V. List of All Other Cases In Which, During the Previous Four Years, I Have Testified as an Expert at Trial or By Deposition

VI. Statement of the Compensation to be Paid for My Study and Testimony in this Case

I. Complete Statement of All Opinions I Will Express and the Basis and the Reasons for Them

The background facts and circumstances presented to me and summarized below regarding the dispute between Dr. Malhotra and Banner Thunderbird include those set forth below. I have not undertaken any independent effort to verify the accuracy of such facts and circumstances so presented to me and I assume the validity and authenticity of documentation provided to me incident to my review.

I am advised that Dr. Malhotra is a licensed physician who had medical staff privileges at Banner Thunderbird, and was a member of the Group which was a party to a contract with Banner Thunderbird effective June 1, 2005, as amended (Contract), “to contract with Group on a semi-exclusive basis for the provision of hospitalist services for patients admitted from the Medical Center Emergency Department [at Banner Thunderbird][and] [b]y [such] Agreement, the parties desire to provide consistent services, to improve quality and to enhance the efficiency and effectiveness of the administration of services, all of which are expected to improve patient care.” [Recital C.]

I am further advised that Banner Thunderbird claims that Dr. Malhotra violated **HIPAA** because Dr. Malhotra “allegedly plainly accessed information in violation of federal law....” In a transcript of a Banner Thunderbird Fair Hearing on May 1, 2008 regarding certain allegations involving Dr. Malhotra, further information is provided by Ted Laughlin, MD, who I am advised was the Chief Medical Officer at Banner Thunderbird at the time relevant to such allegations and who, in such transcript, describes, on pages 46 et seq., certain circumstances relating to missed assignments, dates of admission of patients, physicians doing their own checks, and providing lists of admissions from certain periods of time, hospital operations, and verification of correct patient assignment.

A review of the **HIPAA** final privacy rule and related published U.S. Department of Health and Human Services (HHS) information indicates an absence of provisions that should, or could, be construed to prohibit the access to and disclosure of the patient information that Dr. Malhotra is alleged to have initiated, in the specific circumstances in which such access and disclosure occurred including as so described by Dr. Laughlin. If each of Dr. Malhotra and the Group is classified as a covered health care provider under **HIPAA** and therefore each of them is a **HIPAA** covered entity to which the **HIPAA** final privacy rule is applicable, as it appears from the information provided to me, there are provisions in the **HIPAA** final privacy rule that permit, and indeed, encourage, the sharing by Banner Thunderbird, Dr. Malhotra, and the Group, of patient information under such specific circumstances.

The **HIPAA** final privacy rule contains provisions addressing the need for arrangements among physicians including hospitalists, and hospitals, that contemplate an organized shared health care arrangement for in-patients among hospital-employed physicians, independent contractors including groups, and others when integrated care is delivered. More particularly, the **HIPAA** final privacy rule defines organized health care arrangement (OHCA) as follows in [45 CFR Section 160.103](#):

“Organized health care arrangement means:

- (1) A clinically integrated care setting in which individuals typically receive health care from more than one health care provider;
- (2) An organized system of health care in which more than one covered entity participates and in which the participating covered entities: (i) Hold themselves out to the public as participating in a joint arrangement; and (ii) Participate in joint activities that include at least one of the following:
 - (A) Utilization review, in which health care decisions by participating covered entities are reviewed by other participating covered entities or by a third party on their behalf;

(B) Quality assessment and improvement activities, in which treatment provided by participating covered entities is assessed by other participating covered entities or by a third party on their behalf; or performance, or operations; or

(C) Payment activities, if the financial risk for delivering health care is shared, in part or in whole, by participating covered entities through the joint arrangement and if protected health information created or received by a covered entity is reviewed by other participating covered entities or by a third party on their behalf for the purpose of administering the sharing of financial risk.

(3) A group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to protected health information created or received by such health insurance issuer or HMO that relates to individuals who are or who have been participants or beneficiaries in such group health plan;

(4) A group health plan and one or more other group health plans each of which are maintained by the same plan sponsor; or

(5) The group health plans described in paragraph (4) of this definition and health insurance issuers or HMOs with respect to such group health plans, but only with respect to protected health information created or received by such health insurance issuers or HMOs that relates to individuals who are or have been participants or beneficiaries in any of such group health plans.”

In a question and answer portion of the internet web site of the Office for Civil Rights of HHS, the following appears at <http://www.hhs.gov/ocr/privacy/hipaa/faq/providers/business/248.html> (accessed April 17, 2009):

“Do physicians with hospital privileges have to enter into business associate contracts with the hospital?

Answer:

No. The hospital and such physicians participate in what the **HIPAA** Privacy Rule defines as an organized health care arrangement (OHCA). Thus, they may use and disclose protected health information for the joint health care activities of the OHCA without entering into a business associate agreement.

Date Created: 12/19/2002

Last Updated: 03/14/2006”

The Contract includes, in Exhibit A, a description of certain of the responsibilities of a hospitalist, including:

“Hospitalist services include services provided by physicians acting as a hospitalist to inpatients admitted through/from the Emergency Department of Medical Center who have a primary care physician other than the hospitalist or the group with which the hospitalist practices. While acting as a hospitalist, a physician shall be the attending physician during the patient's inpatient stay and provide all services required by the patient that are within the scope of the physician's license and privileges. The hospitalist shall not have an ongoing obligation to continue care for the patient following discharge, other than with respect to post discharge referrals.

...

Work collaboratively with Medical Center Director and Department of Medicine in the development and implementation of clinical protocols, policies and procedures, quality improvement activities, evidence-based clinical care and other endeavors designed to enhance the quality of care, efficiency, cost-effectiveness and patient safety within the inpatient services at Medical Center.”

In a first amendment entered into as of February 23, 2007 the Contract was changed to include provisions establishing a performance-based incentive program involving a Bonus Pool reflecting, inter alia, quality and performance based incentives to the Group, which further implicates the existence of an OHCA.

In a description of hospitalist appearing on the Banner Thunderbird web site at

<http://www.bannerhealth.com/Services/Health±And±Wellness/Ask±the ± Expert/Taking±Care±of±You/ Working±with±a ±hospitalist.htm>

(accessed April 7, 2008)

the following appears:

“Kathryn Perkins, MD, is the Chief Medical Officer at Banner Thunderbird Medical Center

Question: What is a hospitalist?

Answer: A hospitalist is a medical practitioner whose primary focus is to care for patients in the hospital setting. Hospitalists complete med school and usually specialize in internal medicine, family practice or pediatrics. They might be members of a medical practice, or they may cover for one or several physicians independently. Hospitalists may sometimes be hired to handle on-call services for your physician after hours or weekends and holidays. So you may have contact with them if you need assistance after hours.”

In a description of hospitalist appearing on the Banner Thunderbird web site at *<http://www.bannerhealth.com/Services/Health±And±Wellness/Ask±the ± Expert/Taking±Care±of±You/ Hospitalists.htm>*

(accessed April 7, 2008)

the following appears:

“David Edwards, MD, is Chief Medical Officer at Banner Desert Medical Center in Mesa.

Question: During a recent hospital stay, a physician called a Hospitalist' took care of me, rather than my family doctor. What is a hospitalist?

Answer: Over the past several years, there has been a change in the practice of medicine. Office-based family practitioners, general practitioners and internists (physicians trained in internal medicine) are spending more time in the office, and less time caring for their patients when they are hospitalized. The inpatient care role is being filled by specialized physicians called hospitalists. A hospitalist takes a broader view of the care of a hospitalized patient, just as your family doctor would, but concentrates their work in the hospital rather than in the office. After a patient is released from the hospital, the hospitalist communicates with the family doctor so that he or she knows about the care the patient received in the hospital.

Though the term was first used in 1996, hospitalists have been around in smaller numbers before then. Hospitalists are usually trained in internal medicine, though some are trained in family practice, pediatrics or have subspecialty training. Their professional focus is caring for patients in the hospital. This focus can allow them to become more expert in hospital care and to be more available than physicians who work both in the office and the hospital. It is currently the fastest growing specialty. Though there is no formal certification at this time, there are training programs specially designed for physicians who plan to become hospitalists.”

The American Medical Association, in addressing what an organized health care arrangement is under **HIPAA**, states at:

<http://www.ama-assn.org/ama/pub/category/10087.html>

(accessed April 7, 2008)

as follows:

“**HIPAA** Update - OHCA and the Organized Medical Staff

Question: What is an OHCA?

Answer: An Organized Health Care Arrangement (OHCA) is an arrangement or relationship, recognized in the **HIPAA** privacy rules, that allows two or more Covered Entities (CE) who participate in joint activities to share protected health information (PHI) about their patients in order to manage and benefit their joint operations.

In order to qualify as an OHCA, the legally separate CE's must be clinically or operationally integrated and share PHI for the joint management and operation of the arrangement. Also, individuals must expect that these arrangements are integrated and share information to manage their operations.

Although an OHCA can apply to other entities such as group health plans or health systems, the most common example of an OHCA is the hospital setting where the hospital and the physician who has medical staff privileges at the hospital together provide treatment to a hospitalized patient and need to be able to share PHI to treat the patient and to improve hospital operations.

Question: Why have an OHCA?

Answer: The revised **HIPAA** privacy rules allow CE's to share PHI for treatment, payment and health care operations (TPO) but every CE with whom PHI is shared for health care operations must have a relationship with the patient. An OHCA allows physicians who have no relationship with a patient to access PHI of patients for TPO including quality assurance, utilization review and peer review - without a business associate agreement (BA) and with a single Notice of Privacy Practices (NPP).

An OHCA benefits the physician and the hospital because it allows access to PHI by other CE's that are part of the OHCA for quality initiatives within the hospital with a single, common NPP given to the patient upon admission to the hospital. Access to PHI applies only to the participating entities of the OHCA and applies only to patient encounters at that hospital. Permitted access does not extend to the physician's office, other hospitals, clinics, labs or other sites that are not part of the clinically or operationally integrated OHCA.

A clinic, laboratory or practice that is not clinically or operationally integrated with the hospital will need to provide its own NPP.

Question: Does an OHCA have to be reflected in the medical staff bylaws?

Answer: Guidance issued by the HHS Office for Civil Rights in December, 2002 implies that an OHCA exists, without any affirmative action on the part of its participants, anytime a group of CE's participate in activities that are within the definition of an OHCA. There is no specific guidance regarding formation or documentation of an OHCA.”

Note in particular, from the foregoing American Medical Association statement:

“An OHCA allows physicians who have no relationship with a patient to access PHI of patients for TPO including quality assurance, utilization review and peer review - without a business associate agreement (BA) and with a single Notice of Privacy Practices (NPP).”

Health care operations, discussed below, can, and should, be construed to be what Dr. Malhotra was engaging in as and when the patient information -- that is, what appears to have been solely MRNs and DOAs of three patients, two of whom I am advised Dr. Malhotra recalls as having previously been cared for by members of the Group -- was produced that I am advised Banner Thunderbird asked Dr. Malhotra to produce, at the same time that Banner Thunderbird already possessed that information as a part of OHCA operational requirements and pursuant to, and directly relevant to, the implementation of the Contract. Note also that under **HIPAA's** final privacy rule at Section 164.502(b)(1), when using or disclosing protected health information or when requesting protected health information (as defined under the **HIPAA** final privacy rule) under certain circumstances from another covered entity, a covered entity must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. To my knowledge, no allegation has been made that Dr. Malhotra accessed any treatment information or any information other than the MRNs and the DOAs of three patients and no allegation has been made that Dr. Malhotra made that information available other than to Banner Thunderbird, which already possessed that information but, so far as I can discern, did not appreciate the significance of that information insofar as the Contract was concerned.

With the foregoing analysis relating to the HIPAA final privacy rule's definition of an OHCA, and the Contract provisions relating to what hospitalists do and Banner Thunderbird's publications regarding hospitalists, and the American Medical Association's views regarding an OHCA being considered, a review of the Banner Thunderbird **HIPAA** Notice of Privacy Practices is instructive.

In the **HIPAA** Notice of Privacy Practices for Banner Thunderbird appearing at:

<http://www.bannerhealth.com/Patients+and+Visitors/Patient+Privacy/Privacy+Practices.htm>

(accessed April 7, 2008)

the following appears:

“Treatment: Banner Thunderbird Health may use information about you to provide you with medical services and supplies. We may also disclose information about you to others that need that information to treat you, such as doctors, physician assistants, nurses, medical and nursing students, technicians, therapists, emergency service and medical transportation providers, medical equipment providers, and others involved in your care. For example, we will allow your physician to have access to your medical record to assist in your treatment and for follow-up care. We may use and disclose information about you to contact you to remind you of an upcoming appointment, to inform you about possible treatment options or alternatives, or to tell you about health related services available to you...

Payment: Banner Thunderbird may use and disclose information about you to get paid for the medical services and supplies we provide you. For example, your health plan or health insurance company may request to see parts of your medical record before they will pay us for your treatment.

Health care operations: Banner Thunderbird Health may use and disclose information about you if it is necessary to improve the quality of care we provide to patients or to run the health care operations. We may use information about you to conduct quality improvement activities, to obtain audit, accounting or legal services, or to conduct business management and planning. For example, we may use medical information to review our treatment and services and to evaluate the performance of our staff in caring for you...

Which health care providers does this notice cover?

This Notice of Privacy Practices applies to Banner Health facilities and its personnel, volunteers, students and trainees. The notice also applies to other health care providers that come to the facility to care for patients, such as physicians, physician assistants, therapists, emergency services providers, medical transportation companies, medical equipment suppliers and other health care providers not employed by Banner Health unless these other health care providers give you their own notice that describes how they will protect your medical information. Banner may share your medical information with these other health care providers for their treatment, payment, and health care operations. This arrangement is only for sharing information and not for any other purpose.”

A review of this Notice of Privacy Practices and the OHCA materials referenced above indicates that Banner Thunderbird and the Group, and the physicians having medical staff privileges and being a part of the Group including Dr. Malhotra are appropriately to be considered to be participants in a **HIPAA** OHCA. Patients admitted to Banner Thunderbird are notified (and the three patients relating to Banner Thunderbird's claim against Dr. Malhotra therefore will be assumed to have been advised), in such Notice, that: “Banner may share your medical information with these other health care providers [which would appear to include hospitalists, based upon the statements regarding hospitalist services published by Banner Thunderbird] for their treatment, payment, and health care operations. This arrangement is only for sharing information and not for any other purpose.”

The word “their” in such Notice can appropriately be construed to mean “the hospitalists” in the context of the Notice specifically and such Banner Thunderbird statements regarding hospitalists generally.

Accordingly, the type of use and sharing of patient information that Dr. Malhotra is alleged to have undertaken can, and should, be construed to be consistent with, encouraged by, and complementary to the Contract, the OHCA, the publications of Banner Thunderbird regarding hospitalists, the American Medical Association statement, and the Banner Thunderbird Notice of Privacy Practices, particularly when the relevant and limited patient information was shared only with Banner Thunderbird personnel by someone -- namely, Dr. Malhotra -- who as a member of the Group is a part of the OHCA involving Banner Thunderbird and the Group. Furthermore, it does not appear that any of the patients involved would have adversely been affected by the health care operations-contemplated limited sharing of certain of their information described above, particularly when considering their having been advised in such Notice of Privacy Practices of the likely information-sharing activities incident to the OHCA operations.

The **HIPAA** final privacy rule specifically contemplates the sharing of medical information in an OHCA environment as a part of health care operations, in § 164.506(c)(5) as follows:

“(5) A covered entity that participates in an organized health care arrangement may disclose protected health information about an individual to another covered entity that participates in the organized health care arrangement for any health care operations activities of the organized health care arrangement.”

It should be noted that there is no indication that Dr. Malhotra is viewed by Banner Thunderbird, or should be viewed by Banner Thunderbird, as an employee of Banner Thunderbird, or as a member of the **HIPAA** final privacy rule workforce of Banner Thunderbird subject to investigation and discipline as such by Banner Thunderbird, or as a business associate; but as a hospitalist Dr. Malhotra would be an independent practicing physician who is a part of the Banner Thunderbird OHCA.

Banner Thunderbird's allegations include citations to the following, which includes a definition of health care operations, in the **HIPAA** final privacy rule as allegedly having been violated:

“§ 164.502 Uses and disclosures of protected health information: general rules.

(a) Standard. A covered entity may not use or disclose protected health information, except as permitted or required by this subpart or by subpart C of part 160 of this subchapter.

(1) Permitted uses and disclosures. A covered entity is permitted to use or disclose protected health information as follows: (i) To the individual; (ii) For treatment, payment, or health care operations, as permitted by and in compliance with § 164.506; (iii) Incident to a use or disclosure otherwise permitted or required by this subpart, provided that the covered entity has complied with the applicable requirements of § 164.502(b), § 164.514(d), and § 164.530(c) with respect to such otherwise permitted or required use or disclosure; (iv) Pursuant to and in compliance with an authorization that complies with § 164.508; (v) Pursuant to an agreement under, or as otherwise permitted by, § 164.510; and (vi) As permitted by and in compliance with this section, § 164.512, or § 164.514(e), (f), or (g).

(2) Required disclosures. A covered entity is required to disclose protected health information: (i) To an individual, when requested under, and as required by §§ 164.524 or 164.528; and (ii) When required by the Secretary under subpart C of part 160 of this subchapter to investigate or determine the covered entity's compliance with this subpart.

§ 164.506 Uses and disclosures to carry out treatment, payment, or health care operations.

(a) Standard: Permitted uses and disclosures.

Except with respect to uses or disclosures that require an authorization under § 164.508(a)(2) and (3), a covered entity may use or disclose protected health information for treatment, payment, or health care operations as set forth in paragraph (c) of this section, provided that such use or disclosure is consistent with other applicable requirements of this subpart.

(b) Standard; Consent for uses and disclosures permitted. (1) A covered entity may obtain consent of the individual to use or disclose protected health information to carry out treatment, payment, or health care operations. (2) Consent, under paragraph

(b) of this section, shall not be effective to permit a use or disclosure of protected health information when an authorization, under § 164.508, is required or when another condition must be met for such use or disclosure to be permissible under this subpart.

(c) Implementation specifications: Treatment, payment, or health care operations.

(1) A covered entity may use or disclose protected health information for its own treatment, payment, or health care operations.

(2) A covered entity may disclose protected health information for treatment activities of a health care provider.

(3) A covered entity may disclose protected health information to another covered entity or a health care provider for the payment activities of the entity that receives the information.

(4) A covered entity may disclose protected health information to another covered entity for health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the protected health information being requested, the protected health information pertains to such relationship, and the disclosure is: (i) For a purpose listed in paragraph (1) or (2) of the definition of health care operations; or (ii) For the purpose of health care fraud and abuse detection or compliance.

(5) A covered entity that participates in an organized health care arrangement may disclose protected health information about an individual to another covered entity that participates in the organized health care arrangement for any health care operations activities of the organized health care arrangement.”

A review of the definition of health care operations, and of the Contract, the implicated OHCA, the publications of Banner Thunderbird regarding hospitalists, the American Medical Association statement, and the Banner Thunderbird Notice of Privacy Practices, indicates that what Dr. Malhotra was alleged by Banner Thunderbird to have done regarding patient information would have been a part of the health care operations of Banner Thunderbird, and of Dr. Malhotra and the Group, all as a part of the activities contemplated by the **HIPAA** final privacy rule as being appropriate for the health care operations of an OHCA.

With respect to permitted uses and disclosures of patient health information, the following appears in an HHS preamble commentary regarding the promulgation of the **HIPAA** final privacy rule:

“December 28, 2000 Description of Rule Provisions

Part 160--Subpart A--General Provisions

Published in the Federal Register by HHS

...

[6.] Disclosure

We proposed to define disclosure' to mean the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information. The final rule is unchanged. [45 CFR Section 160.103] We note that the transfer of protected health information from a covered entity to a business associate is a disclosure for purposes of this regulation.”

If the only sharing of the information relating to the three patients referenced by Banner Thunderbird was within Banner Thunderbird and within the OHCA that Banner Thunderbird, Dr. Malhotra, and the Group constituted, there would have been no disclosure outside of any of them that could be alleged to have occurred because of any of actions taken by Dr. Malhotra so alleged to have occurred by Banner Thunderbird.

Also worthy of note is that use is defined as:

“...the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information. 45 CFR Section 160.103.”

There is no indication that the information relating to the three patients referenced by Banner Thunderbird was used other than within the Banner Thunderbird entity and within the OHCA that Banner Thunderbird, Dr. Malhotra, and the Group constituted. Therefore there would have been no use outside of any of them that could be alleged to have occurred because of any such actions taken by Dr. Malhotra. Dr. Malhotra, as a privileged member of the medical staff, and as a participant with the Group in the OHCA, would have been using such patient information precisely in the manner contemplated by the **HIPAA** final privacy rule: that is, for health care operations as a part of the business operations of an OHCA as contemplated by and consistent with the Banner Thunderbird Notice of Privacy Practices and the Contract.

Regarding what is contemplated by health care operations and activities of an OHCA under the **HIPAA** final privacy rule, the following appears in an HHS preamble commentary regarding the promulgation of the **HIPAA** final privacy rule [emphasis supplied]:

“December 28, 2000 Description of Rule Provisions

Part 160--Subpart A--General Provisions

Published in the Federal Register by HHS

...

[7.] Health Care Operations

The preamble to the proposed rule explained that in order for treatment and payment to occur, protected health

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information must be used within entities and shared with business partners. In the proposed rule we provided a definition for 'health care operations' to clarify the activities we considered to be 'compatible with and directly related to' treatment and payment and for which protected health information could be used or disclosed without individual authorization. These activities included conducting quality assessment and improvement activities, reviewing the competence or qualifications and accrediting/licensing of health care professionals and plans, evaluating health care professional and health plan performance, training future health care professionals, insurance activities relating to the renewal of a contract for insurance, conducting or arranging for medical review and auditing services, and compiling and analyzing information in anticipation of or for use in a civil or criminal legal proceeding. Recognizing the dynamic nature of the health care industry, we acknowledged that the specified categories may need to be modified as the industry evolves.

The preamble discussion of the proposed general rules listed certain activities that would not be considered health care operations because they were sufficiently unrelated to treatment and payment to warrant requiring an individual to authorize such use or disclosure. Those activities included: marketing of health and non-health items and services; disclosure of protected health information for sale, rent or barter; use of protected health information by a non-health related division of an entity; disclosure of protected health information for eligibility, enrollment, underwriting, or risk rating determinations prior to an individuals' enrollment in a health plan; disclosure to an employer for employment determinations; and fundraising.

In the final rule, we do not change the general approach of defining health care operations: health care operations are the listed activities undertaken by the covered entity that maintains the protected health information (i.e., one covered entity may not disclose protected health information for the operations of a second covered entity)...

[but I note that with respect to an OHCA and as referenced below, the sharing of protected health information will be either for the operations of the disclosing entity or for the organized health care arrangement in which the entity is participating, and the sharing alleged to have been initiated by Dr. Malhotra was a sharing for the Banner Thunderbird OHCA with the Group and with Banner Thunderbird, which obviously was a covered entity already possessing the very same information]

...a covered entity may use any protected health information it maintains for its operations (e.g., a plan may use protected health information about former enrollees as well as current enrollees); we expand the proposed list to reflect many changes requested by commenters.

We modify the proposal that health care operations represent activities 'in support of' treatment and payment functions. Instead, in the final rule, health care operations are the enumerated activities to the extent that the activities are related to the covered entity's functions as a health care provider, health plan or health care clearinghouse, i.e., the entity's covered functions. We make this change to clarify that *health care operations includes general administrative and business functions necessary for the covered entity to remain a viable business*. While it is possible to draw a connection between all the enumerated activities and treatment and payment,' for some general business activities (e.g., audits for financial disclosure statements) that connection may be tenuous. The proposed concept also did not include the operations of those health care clearinghouses that may be covered by this rule outside their status as business associate to a covered entity. *We expand the definition to include disclosures for the*

enumerated activities of organized health care arrangements in which the covered entity participates. See also the definition of organized health care arrangements, below.

In addition, we make the following changes and additions to the enumerated subparagraphs:

...

We add two new categories of activities:

(5) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies.

...

We note that this definition, either alone or in conjunction with the definition of organized health care arrangement, allows an entity such as an integrated staff model HMO, whether legally integrated or whether a group of associated entities, that hold themselves out as an organized arrangement to share protected health information under *Sec. 164.506*. *In these cases, the sharing of protected health information will be either for the operations of the disclosing entity or for the organized health care arrangement in which the entity is participating.*

...

[December 28, 2000 Description of Rule Provisions Part 160--Subpart A--General Provisions Published in the Federal Register by HHS]

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We also add language to the final rule that clarifies that the mere fact that two covered entities participate in an organized health care arrangement does not make either of the covered entities a business associate of the other covered entity. The fact that the entities participate in joint health care operations or other joint activities, or pursue common goals through a joint activity, does not mean that one party is performing a function or activity on behalf of the other party (or is providing a specified services to or for the other party).

...

[15.] Organized Health Care Arrangement

This term was not used in the proposed rule. *We define the term in order to describe certain arrangements in which participants need to share protected health information about their patients to manage and benefit the common enterprise.* To allow uses and disclosures of protected health information for these arrangements, we also add language to the definition of health care operations.' See discussion of that term above.

We include five arrangements within the definition of organized health care arrangement. The arrangements involve clinical or operational integration among legally separate covered entities in which it is often necessary to share protected health information for the joint management and operations of the arrangement. They may range in legal structure, but *a key component of these arrangements is that individuals who obtain services from them have an expectation that these arrangements are integrated and that they jointly manage their operations. We include within the definition a clinically integrated care setting in which individuals typically receive health care from more than one health care provider. Perhaps the most common example of*

this type of organized health care arrangement is the hospital setting, where a hospital and a physician with staff privileges at the hospital together provide treatment to the individual. Participants in such clinically integrated settings need to be able to share health information freely not only for treatment purposes, but also to improve their joint operations. For example, any physician with staff privileges at a hospital must be able to participate in the hospital's morbidity and mortality reviews, even when the particular physician's patients are not being discussed. Nurses and other hospital personnel must also be able to participate. These activities benefit the common enterprise, even when the benefits to a particular participant are not evident. While protected health information may be freely shared among providers for treatment purposes under other provisions of this rule, some of these joint activities also support the health care operations of one or more participants in the joint arrangement. Thus, special rules are needed to ensure that this rule does not interfere with legitimate information sharing among the participants in these arrangements.

We also include within the definition an organized system of health care in which more than one covered entity participates, and in which the participating covered entities hold themselves out to the public as participating in a joint arrangement, and in which the joint activities of the participating covered entities include at least one of the following: utilization review, in which health care decisions by participating covered entities are reviewed by other participating covered entities or by a third party on their behalf; quality assessment and improvement activities, in which treatment provided by participating covered entities is assessed by other participating covered entities or by a third party on their behalf; or payment activities, if the financial risk for delivering health care is shared in whole or in part by participating covered entities through the joint arrangement and if protected health information created or received by a covered entity is reviewed by other participating covered entities or by a third party on their behalf for the purpose of administering the sharing of financial risk. A common example of this type of organized health care arrangement is an independent practice association formed by a large number of physicians. They may advertise themselves as a common enterprise (e.g., Acme IPA), whether or not they are under common ownership or control, whether or not they practice together in an integrated clinical setting, and whether or not they share financial risk.

If such a group engages jointly in one or more of the listed activities, the participating covered entities will need to share protected health information to undertake such activities and to improve their joint operations. In this example, the physician participants in the IPA may share financial risk through common withhold pools with health plans or similar arrangements. The IPA participants who manage the financial arrangements need protected health information about all the participants' patients in order to manage the arrangement. (The participants may also hire a third party to manage their financial arrangements.) If the participants in the IPA engage in joint quality assurance or utilization review activities, they will need to share protected health information about their patients much as participants in an integrated clinical setting would. Many joint activities that require the sharing of protected health information benefit the common enterprise, even when the benefits to a particular participant are not evident."

With the foregoing in mind, I conclude that it is reasonable and appropriate to construe what is alleged by Banner Thunderbird, as referenced above, to have been done by Dr. Malhotra, as being contemplated by and not inconsistent with the **HIPAA** final privacy rule provisions generally, and more specifically those relating to use and disclosure of protected health information in connection with and as a part of the operations of an OHCA. What occurred appears to me to have been a part of the health care operations of the participating covered entities, in the particular circumstances presented by and complementary to the business and professional relationship among the patients, Banner Thunderbird, Dr. Malhotra, and the Group. Accordingly, it is my opinion, as discussed in detail above, that the actions of Dr. Malhotra did not violate the provisions of **HIPAA** and/or such Banner Thunderbird Notice of Privacy Practices published pursuant to **HIPAA**.

II. Data or Other Information Considered In Forming My Opinions

In forming my opinions, I considered and reviewed the Health Insurance Portability and Accountability Act of 1996 including specifically the Administrative Simplification subtitle, as amended (**HIPAA**); certain of the preambles to the rules promulgated by the Secretary of the U.S. Department of Health and Human Services (HHS); certain of the materials appearing on the internet web site maintained by the Office for Civil Rights of HHS; documents provided to me including the Contract as

amended; the Banner Thunderbird web publications and Notice of Privacy Practices referenced above; the AMA document referenced above; the transcript produced in connection with the Banner Thunderbird Medical Center Fair Hearing of May 1, 2008 relating to Rakesh Malhotra, MD referenced above; and my general knowledge gained in providing advice and assistance and in educational lectures, and my experience gained in authoring educational materials and gained generally in responding to inquiries and providing opinions regarding the applicability of, the implementation of, and the enforcement of **HIPAA**.

III. Exhibits That Will Be Used to Summarize My Opinions

In order to summarize my opinions, portions of such data and other information considered in forming my opinions and referenced in Section III may be used.

IV. My Qualifications

1. My Education and Experience

I have been an attorney-at-law since November 14, 1967 initially engaged in a general practice of law including transactional and litigation matters involving real estate, business organizations, taxation, estate planning, and health care. I now practice business and tax law including the delivery and regulation of health care, and information technology. I also provide advice as an expert in matters involving health care privacy and security, and in connection therewith I now own the internet web domains *www.healthprivacyexpert.com* and *www.healthsecurityexpert.com* as a part of my consulting work.

I am admitted to the bars of the Commonwealth of Virginia, the State of New York, the District of Columbia, the State of Florida, and the Commonwealth of Massachusetts; and the bars of the United States Supreme Court, the First Circuit Court of Appeals and the Fourth Circuit Court of Appeals, and the United States District Court - Massachusetts and the United States District Court - Eastern and Western Districts of Virginia, the United States District Court - District of Columbia, and the United States Court of Federal Claims and the United States Tax Court.

I received an AB in history from Brooklyn College of the City University of New York and a JD from Boston College Law School, where I was a member of the Law Review and was selected for the National Moot Court Team. In 1978, I received an LL.M. (Taxation) from Boston University School of Law. After graduation from Boston College Law School in 1967, I commenced the practice of law at Goulston & Storrs, in Boston, Massachusetts, as the eleventh member of what eventually would become a multistate large general practice law firm, where my responsibilities included participating in the work of the firm's technology committee and shepherding migration to a local area network and to a firm-wise computer-based accounting and billing system, and from 2002 until 2006 I was resident in the Washington, DC office of the firm.

Upon admission to the bar of the Commonwealth of Virginia on June 5, 2006, I opened the law office of Alan S. Goldberg, Attorney & Counsellor-at-Law, which is located at 6845 Elm Street, Suite 205, McLean, Virginia 22101 and is my sole office location.

My introduction to health law occurred during the dawning of the Medicare/Medicaid programs era when I served on active duty as a staff Judge Advocate, a District Claims Officer, and a prosecutor and defense counsel, in the United States Navy from January 1968 to July 1970. During my tenure in the U.S. Navy JAGC, I was involved in Navy investigative actions relating to the return of the USS Pueblo from North Korea and the Sealab undersea exploration project in California, and in health care related legal matters involving the Federal Tort Claims Act, the Medical Care Recovery Act, and CHAMPUS, and I was a frequent user of information technology communications equipment as a part of my duties.

I am a past President of the American Health Lawyers Association (AHLA) (1991-1992). I served on the AHLA Board of Directors from 1981 to 1993, and I served as an Internet advisor to the AHLA Board. I received the AHLA David J. Greenburg Service Award in 1996 and I was named an AHLA Inaugural Fellow in 2005. I am the founding and current moderator

of the American Health Lawyers Association Health Information and Technology Internet listserv. In 2006, I received the Distinguished Alumnus Award from Boston College Law School at the 75th anniversary celebration of the founding of the law school.

I appeared in The Best Lawyers in America and served as Vice Chair of the American Health Lawyers Association Health Information and Technology Practice Group, as well as Chair of the American Bar Association Health Law Section's e-Health & Privacy Interest Group.

I authored numerous publications on business, health care, technology, and other legal issues including on topics relating to privacy and security, telemedicine, civil and criminal health care regulatory enforcement, ethics and professional responsibility, assisted living, and long term care development and financing. I plan and participate as a moderator and as a lecturer in numerous national and local conferences and teleconferences, including programs for the American Bar Association and the American Health Lawyers Association. I also has planned and participated in educational programs for many other organizations in Virginia, Massachusetts, the District of Columbia, Florida, Michigan, South Carolina, Oregon, London UK, and Israel, including the Massachusetts Hospital Association, Massachusetts Dental Society, Massachusetts Medical Society, and the Massachusetts Long Term Care Foundation; the American Telemedicine Association; the Health Care Compliance Association; the Workgroup For Electronic Data Interchange; the American Health Care Association; the Healthcare Information and Management Systems Society; the United States Navy; the Centers for Medicare and Medicaid Services; the District of Columbia AHIMA chapter; The Sedona Conference; the Virginia State Bar and the Virginia Bar Association; Virginia Continuing Legal Education; and the Northern Virginia Technology Council. I presented loss prevention seminars relating to technology issues to the law firm membership of Attorneys' Liability Assurance Society and I served as an ALAS Claims Counsel during my tenure with my former law firm.

I was the editor of The Computer Wizard law and computer technology column published by the American Bar Association's Business Law Section magazine, Business Law Today.

I served on the Practice Council: Electronic Health Record of the American Health Information Management Association, and I Co-Chaired The National **HIPAA** Summit series during the sixteen times this event has occurred. I served as a Council Member of the American Bar Association Health Law Section and was its first Substantive Webmaster. I served as Co-Chair of the Steering Committee of the Health Law Section and I currently serve as a member of the Rules of Professional Conduct Review Committee of the District of Columbia Bar. I am Secretary/Treasurer of the Council of the Virginia Bar Association Health Law Section with a particular focus on continuing legal education and the publication of an electronic newsletter. I am a member of the Technology and the Practice of Law Special Committee and Secretary of the Board of Governors of the Health Law Section of the Virginia State Bar.

I was appointed by the Chief Justice of the Supreme Court of Virginia to the Commonwealth of Virginia Mandatory Continuing Legal Education Board for a three-year term beginning July 1, 2009. The Board is responsible for administering and supervising the mandatory continuing legal education program for the Virginia State Bar. I am Co-Chair of the Health Technology Committee of the Northern Virginia Technology Council, and I provide legal representation to the Northern Virginia Regional Health Information Organization -Inc. (NOVARHIOsm) and I served as a founding member of the board and as the first Secretary of the Board of Directors of NOVARHIO. I am a former member of Local 802, American Federation of Musicians, Associated Musicians of Greater New York, which encouraged my interest in recording technology using computers.

My academic endeavors began at Boston College Law School where during several terms after graduation I taught a course in Land Finance as a member of the Adjunct Faculty. Thereafter, I taught eHealth Care Law at the University of Maryland School of Law in Baltimore, Maryland as well as at Suffolk University Law School in Boston, Massachusetts, both in person and using distance educational techniques including live video two-way ISDN communications with my law students. I taught Health Care Informatics and Law as a member of the Adjunct Faculty of Marymount University School of Business Administration in Ballston, Virginia. Currently I am member of the Adjunct Faculties of the George Mason University School of Law in Arlington,

Virginia and the George Mason University College of Health and Human Services Department of Health Administration and Policy in Fairfax Virginia, where I teach Health Law and use my web site www.healthlawyerblog.com to provide curriculum information for my students and I expect to co-teach a new elective course in Health Law and Policy during 2010.

Among my professional interests are the transactional and financial aspects of health care, life sciences, biotechnology, and related businesses including formation and operation of business entities, regulatory enforcement and civil and criminal health law defense including the defense of licensure, peer review, and payor actions against health care providers, Internet law and practice, security and encryption, privacy and confidentiality, software licensing, medical devices, corporate compliance programs, certificate of public need, reimbursement, regional health information organizations and exchanges, information technology, taxation including tax-exempt organizations, and telemedicine, and challenges and opportunities involving the application of technology to the practice of law and medicine and to the delivery of healthcare. I increasingly am asked to provide expert opinions for colleagues regarding matters relating to health care and information technology.

2. Selected List of My Publications, Citations, Quotations, and Presentations

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1. Trade Regulation - Unfair Competition - Concurrent Rights to Trade Names. - Food Center, Inc. v. Food Fair Stores, Inc., 8 B.C. L. REV. 168 (1966)
2. Uniform Commercial Code Annotations, SECTION 2-711. Buyer's Remedies in General; Buyer's Security Interest in Rejected Goods, [Grandi v. LeSage](#), 399 P.2d 285 (N.M 1965), 7 B.C. L. REV. 103 (1965)
3. Uniform Commercial Code Annotations, SECTION 4-403. Customer's Right to Stop Payment; Burden of Proof of Loss, [Cicci v. Lincoln Nat'l Bank & Trust Co.](#), 260 N.Y.S. 2d 100 (Syracuse City Ct. 1965), 7 B.C. L. REV. 110 (1965)
4. Reflections On Not Leaving the Practice of Law, 24 M. L. W. 650, Massachusetts Lawyers Weekly, December 4, 1995, at 11.
5. The HP Palmtop: An Effective Electronic Legal Assistant??, The HP Palmtop Paper, November/December 1995, at 45.
6. Assisted Living in Massachusetts: Another Way of Caring, Boston Bar Journal, September/October 1997, at 10.
7. TELEMEDICINE: EMERGING LEGAL ISSUES (Alan S. Goldberg and Jocelyn F. Gordon), American Health Lawyers Association 1998.
8. A Telemedicine Primer: Critical Issues for Health Lawyers (Alan S. Goldberg and Jocelyn F. Gordon), Health Information and Technology News: American Health Lawyers Association, Spring/Summer 1998, Volume 1, Issue 3, at 1.
9. Operation Restore Trust (Alan S. Goldberg and Steven J. Snyder), Currents: American Association of Homes and Services For the Aging, July 1998, Volume 13, Number 7, at 12.
10. **HIPAA** Security: Protecting Patient Information (Alan S. Goldberg and Steven J. Snyder), Essential Informatics for Medical Groups, June 1999, Volume 1, Number 6, at 1.
11. LONG TERM CARE ANTIFRAUD AND ABUSE COMPLIANCE PROGRAM MANUAL (Denis M. King and Alan S. Goldberg), American Health Lawyers Association 1999.
12. TELEMEDICINE: EMERGING LEGAL ISSUES, Second Edition (Alan S. Goldberg and Jocelyn F. Gordon,) American Health Lawyers Association 1999.

13. **HIPAA** Security: Protecting Patient Information, Health Law Society of Suffolk University Law School, Spring 2000, Volume 1, Issue 1, at 1.
14. It's Time to Get Moving On **HIPAA** (Alan S. Goldberg and Kenneth S. Levine), Provider: American Health Care Association, March 2001, at 39.
15. The Department of Health and Human Services Tells Long Term Care: **HIPAA** Loves You?? - Civil Penalties a/k/a Nice **HIPAA**, LTC Advisor: American Health Lawyers Association, Spring 2001, Volume 4, Issue 2, at 1.
16. Financing for Construction and Acquisition of Nursing Home, Continuing Care, and Assisted Living Developments (Alan S. Goldberg and Steven J. Snyder), The Long Term Care Handbook: Regulatory, Operational & Financial Guideposts, American Health Lawyers Association, 2001, at 461
17. Contract Bytes: **HIPAA** Contracting and Expanding, Health Information and Technology News: American Health Lawyers Association, Spring 2001, Volume 4, Issue 1, at 8.
18. Don't Let **HIPAA** Hang You Up (Alan S. Goldberg and Jack A. Eiferman), Journal of the Massachusetts Dental Society, Fall 2001, Volume 50, Number 3, at 12.
19. The Lore of **HIPAA** Ripples - Other Laws Affected by and Affecting the **HIPAA** Law, American Bar Association: Healthcare Technology & Bioscience, October 12, 2001.
20. Healthcare Technology and Bioscience: **HIPAA** and Beyond, The Health Lawyer: American Bar Association Health Law Section, January 2002, Volume 14, Number 2, at 1
21. Administrative Simplification Compliance Act: Will a **HIPAA** Delay Make It Pay? (Alan S. Goldberg and Aaron M. Grossman), HLD, v. 30, n. 2, p. 3, February 2002, Health Law Digest: American Health Lawyers Association
22. Administrative Simplification Compliance Act: Will a **HIPAA** Delay Make It Pay? (Alan S. Goldberg and Aaron M. Grossman), Health Information & Technology News: American Health Lawyers Association, Spring 2002, Volume 5, Issue 1, at 14.
23. Protecting Privacy When Using Telehealth Technology in Healthcare (contributing author)., Prepared for: US Department of Health and Human Services, Office for the Advancement of Telehealth, by Advanced Technology Institute, Telehealth Deployment Research Testbed, October 2002.
24. Long Term Care Acquisition and Financing (Alan S. Goldberg and Steven J. Snyder), revised chapter in The Long Term Care Handbook, American Health Lawyers Association, 2005.
25. **HIPAA** Enforcement (Alan S. Goldberg and Daniel Orenstein), new and revised chapters in E-HEALTH BUSINESS AND TRANSACTIONAL LAW, 2005, 2006, 2007, 2008 SUPPLEMENTS, American Bar Association and Bureau of National Affairs, 2002.
26. Health Law and Technology: A Primer and a Warning, Virginia Lawyer, Virginia State Bar, 2008.
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26. APT Asset Management, Inc., & another v. Board of Appeals of Melrose, 75 N.E. 2d 872, 874, citing Assisted Living in Massachusetts: Another Way of Caring, Boston Bar Journal, September/October 1997.
27. Scott Shanker, Licensure: A Telemedicine Barrier to Efficient and Practical Health Care, 12 FL Bar Association Health Law Section Newsletter 7, 8 (2002), citing TELEMEDICINE: EMERGING LEGAL ISSUES, Second Edition (Alan S. Goldberg and Jocelyn F. Gordon, American Health Lawyers Association 1999).

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28. The Legal Techie, presenting a biography of Alan S. Goldberg, Boston College Law School Magazine, Fall 1996, Volume 5, Number 1, at 25.

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29. **HIPAA** Hopefuls get religion from privacy guru, presenting a summary of a speech by Alan S. Goldberg, Radiology News, <http://www.auntminnie.com>, December 11, 2000.
30. Privacy rule limbo: The Delay and the new public comment period, quoting comments by Alan S. Goldberg, Briefings on **HIPAA** and Health Information Security, Volume 2, Number 4, April 2001, at 1.
31. First Steps for **HIPAA** Compliance, quoting comments by Alan S. Goldberg, Privacy Regulation Report, July 9, 2001, at 3.
32. **HIPAA** isn't the only privacy law, Educate your staff on the Gramm-Leach-Bliley Act, quoting comments by Alan S. Goldberg, Briefings on **HIPAA**, Volume 1, Number 5, September 2001, at 5.
33. Bush Signs Law Extending Deadline For Compliance With Data Regulation, quoting comments by Alan S. Goldberg, Bureau of National Affairs Health Care Daily, Volume 6, Number 248, December 31, 2001, at 1.
34. Pros and Cons of Outsourcing OSHA Compliance Projects, quoting comments by Alan S. Goldberg, OSHA Compliance Insider for Health Care Facilities, April 2002, at 5.
35. **HIPAA** Summit: Focusing on the Practical, quoting comments by Alan S. Goldberg, Privacy Law Advisor, Volume 1, Number 1, May 29, 2002, at 6.
36. BNA Health Law Reporter, **HIPAA** Changes Will Increase Enforcement, Require Changes to Contracts, Panel Says, quoting comments by [Alan S. Goldberg, April 9, 2009, 18 HLR 495](#).

SCHEDULED FUTURE PRESENTATIONS 2009

- HIPAA** Privacy Update, and Co-Chair, The Seventeenth National **HIPAA** SUMMIT, Washington, DC; September 2009
- Employers and Employees: Rights and Responsibilities in 2009, Legislative, Judicial, and Regulatory Updates on COBRA, ERISA, FMLA, GINA, and **HIPAA**, Moderator and Presenter, Webcast, Virginia Continuing Legal Education; June 2009

Recent Health Information Technology, Electronic Medical Records, Health Information Exchanges, and New Privacy, Security, and Data Breach Developments, Including What Virginia Attorneys Need to Know About Being **HIPAA** Business Associates, 11th Annual Virginia Health Law Legislative Update and Health Law Extravaganza, Virginia Bar Association and Virginia State Bar, Richmond, Virginia; May 2009

SELECTED PRESENTATIONS

[Note please that certain presentations were accompanied by written materials which I authored.]

Current Developments in Health Information Technology: Now, the Details and the Drafting, American Bar Association audioconference; April 2009

Legal and Ethical Concerns Regarding Genetic Information GINA 2008, The Center for Business Intelligence, CBI Premier Forum for Payors on Genomics and Personalized Medicine, Baltimore, Maryland; March 2009

Health Care Privacy and Security, Health IT Certification, LLC, Washington, DC; March 2009

How the Genetic Information Nondiscrimination Act of 2008 Affects Lawyers and Their Clients, American Health Lawyer Association audioconference; March 2009

Current Developments in Health Information Technology, American Bar Association Health Law Section audioconference; February 2009

Tax Issues and Opportunities for Not for Profit Organizations, Form 990, Virginia Bar Association Annual Meeting, Williamsburg, VA; January 2009

Tax Law for Health Lawyers; Legal Ethics Update; Virginia Bar Association Health Law Section Roundtable, Richmond, VA; November 2008

HIPAA Enforcement: Privacy and Security Update - Investigations, Resolutions, Penalties, and Dispositions, American Bar Association Health Law Section audioconference; October 2008

Health Care and Aging, American Health Lawyers Association Annual Meeting, San Francisco, CA; July 2008

Health Care and Genetic Information Nondiscrimination Act of 2008, American Bar Association Life Sciences Law Institute, Bethesda, MD; May 2008

Health Care Crimes, Virginia Bar Association, Hot Springs, VA; July 2008

Health Care Legislative Update, Virginia State Bar and Virginia Bar Association, Richmond, VA; May 2008

Health Care and eDiscovery, The Sedona Conference, Sedona, AZ; April 2008

Patient Safety and Quality Improvement Act of 2005 Proposed Regulations, American Bar Association Health Law Section audioconference, April 2008

What You Must Do Before and After a Litigation Hold, American Bar Association Health Law Section audioconference; March 2008

Legal Ethics, Virginia Bar Association Health Law Section Roundtable, Richmond, VA; November 2007

Health Care and Information Technology, American Health Lawyers Association Annual Meeting, Chicago, IL; June 2007

Legal Ethics for Health Lawyers, Virginia Bar Association Health Law Section, Hot Springs, VA; July 2007

RHIO Planning, Organization & Implementation: A Primer, American Bar Association Health Law Section audioconference; May 2007

Electronic Health Records Systems: Current Legal Developments, Boston Bar Association via audioconference; February 2007

Physician Heal Thyself (Alan S. Goldberg and Lawrence Frenkel, MD), American Health Lawyers Association Physicians and Physicians Organization Law conference, February 2007; Las Vegas NV

Practical Answers to Real Life Legal Ethics Issues, Virginia Bar Association Health Law Section Roundtable, December 2006; Richmond VA

PICPA Foundation for Education and Research Health Law Conference, Hershey, PA; June 2006

General Counsel's Round Table: Health Lawyering From the Inside, American Bar Association audioconference; May 2006

Ethics in Fraud and Abuse Counseling, American Bar Association, Ft. Lauderdale, FL; May 2006

Are You Ready for **HIPAA** April? New Privacy Notices for Covered Health Plans - Challenges, American Bar Association Health Law Section audioconference; March 2006

HIPAA Summit Co-Chair 2006, 2007

ePrescribing Proposed Rules, Food and Drug Law Institute; January 2006

The ABCs of Part D, Virginia Bar Association Annual Meeting, Williamsburg, VA; January 2006

ePrescribing Proposed Rules, American Bar Association Health Law Section audioconference; December 2005

The ABCs of Part D: ePrescribing, Fraud and Abuse, Stark, Safe Harbors, DC Bar Health Law Section, Washington, DC; December 2005

Practical Answers to Real Life Legal Ethics Issues 2005 (Moderator and presenter), DC Bar Health Law Section CLE, Washington, DC; December 2005

The ABCs of Part D, DC Bar Health Law Section, Washington, DC; November 2005

Physician Joint Ventures, Virginia Bar Association Health Law Section, Reston, VA; November 2005

HealthIT Certification Legal Issues, Bloomington, MN; October 2005

Clinical Information Systems & Electronic Records 2005, and eHealth 2005, London, UK; September 2005

Anti-Fraud and Abuse and Legal Opinions, American Health Lawyers Association and Health Care Compliance Association, Baltimore, MD; September 2005

HealthIT Certification Legal Issues, Atlanta, GA; September 2005

HIPAA Summit Co-Chair, Baltimore, Maryland; September 2005

Health Contracting is Expanding: Follow These Negotiating Rules and Everybody Wins, TEPR, Boston, MA; August 2005

HealthIT Certification Legal Issues, Cambridge, MA; August 2005

Health Care Privacy, Virginia Bar Association Health Law Section audioconference; June 2005

Schiavo Revisited: An Inside Look At The Case That Shook The Nation, DC Bar Health Law Section, Washington, DC; June 2005

Pay for Performance, Health Care Compliance Association audioconference; May 2005

Medical Records Institute - 2005 TEPR Annual Conference, Be Secure, Salt Lake City, UT; May 2005

HIPAA Enforcement Rule, American Health Lawyers Association audioconference; May 2005

Open Source and Other Health Care Software Legal Issues, Law Conference on Health Insurance Plans: Bridging the Gap between Providers and Insurers American Association of Health Plans and American Health Lawyers Association, Colorado Springs, Colorado; May 2005

Open Source Software, a Source of Opportunity, DC Bar Health Law Section, Washington, DC; April 2005

HIPAA Summit Co-Chair, Baltimore, MD; April 2005

Will You & Your Clients Be Secure on April 20, 2005? Challenges & Opportunities for Law Firms & Others Under the **HIPAA** Security Rule, American Bar Association Health Law Section audioconference; March 2005

Health Information and Technology Summit West **HIPAA** Legal Issues, San Francisco, CA; March 2005

Medical Banking Institute **HIPAA** and Banking, Nashville, TN; February 2005

Implementation of the Part D Drug Benefit, HMOs and Health Plans; Hospitals and Health Systems; and Regulation, Accreditation, and Payment Practice Groups of the American Health Lawyers Association in association with the Pharmaceutical Care Management Association audioconference; February 2005

Health Law Contracting Is Expanding: Here's Your Drafting Toolkit, American Bar Association Health Law Section audioconference; February 2005

Here Comes **HIPAA** Security, DC Bar Health Law Section, Washington, DC; January 2005

Health Information Security and Privacy Rights, HealthTech CUNY/BMCC, New York, NY; January 2005

Professional Responsibility and Legal Ethics, DC Bar Health Law Section CLE, Washington, DC; December 2004

HIPAA Enforcement, American Bar Association Health Law Section Washington Summit, Washington, DC; December 2004

Berkman Center for Internet & Society, **HIPAA** Compliance, Harvard University, Cambridge, MA; November 2004

National HIT Audioconference: Strategic Responses to the GAO Report on Legal Barriers to the Adoption of Health Information Technology; November 2004

Workgroup For Electronic Data Interchange, **HIPAA** Compliance, Atlanta, GA; November 2004

AICPA Annual Healthcare Conference, **HIPAA** for Accountants, Las Vegas, NV; November 2004

HIPAA Administrative Simplification, American Bar Association Health Law Section audioconference; September 2004

MIS Training Institute Mock Trial, **HIPAA**, Cambridge, MA; September 2004

HIPAA Summit Co-Chair, Baltimore, MD; September 2004

National Health Information Infrastructure 2004 (NHII 04) Track Leader, U. S. Department of Health and Human Services, Washington, DC; July 2004

The (Un)Common Law of **HIPAA** Administrative Simplification: The State of Federal & State Judicial Interpretations, American Bar Association Health Law Section audioconference; May 2004

South Carolina Bar **HIPAA**, Charleston, SC; May 2004

American Telemedicine Association Privacy & Security, Tampa, FL; May 2004

HIPAA Research Privacy Programs, National Research Summit, Baltimore, Maryland; April 2004

Health Care Law for Non-Health Care Lawyers, American Bar Association Health Law Section audioconference; April 2004

HIPAA Compliance, Virginia CLE, Fairfax, VA; April 2004

Professionalism and Legal Ethics CLE seminar, DC Bar, Washington, DC; March 2004

HIPAA Summit Co-Chair, Baltimore, MD; March 2004

Food and Drug Law Institute FDA SEC audioconference, Washington, DC; March 2004

HIPAA and Patient Privacy Issues Raised by the New Medicare Prescription Drug Program, National Medicare Congress, Washington, DC; February 2004

HIPAA Administration Simplification for Lawyers: A Look Through the Haze and a Guide to the Maze, American Bar Association Health Law Section; January 2004

HIPAA Compliance and Ethics, Virginia Bar Association Annual Meeting, Williamsburg, VA; January 2003

LEI American Bar Association, **HIPAA** Compliance, Snowmass Village, CO; January 2004

Ethics for the Healthcare Attorney, American Bar Association Health Law Section audioconference; December 2003

HIPAA & Your Privacy Rights, Law School for the Public, Montgomery County, MD Bar Association; December 2003

American Health Lawyers Association Health and Information Technology Conference, San Francisco, CA; October 2003

Administrative Simplification Under **HIPAA**, DC Bar Health Law Section, Washington, DC; October 2003

Medical Banking Institute **HIPAA** Policy Roundtable audioconference, A Policy Review Webcast Series; September 2003

A Consumer Perspective on Patients Rights including privacy of medical records, American Bar Association audioconference, September 2003

Institute for Health Improvement Call to Action **HIPAA** audioconference; September 2003

HIPAA SUMMIT Co-Chair, **HIPAA** Basics, Baltimore, MD; September 2003

Strategies in Responding to the CMS Contingency Guidance for Covered Entities Regarding the Enforcement of the **HIPAA** Transactions and Code Sets, NATIONAL **HIPAA** audioconference; August 2003

HIPAA Compliance, American Association of Medical Society Executives (AAMSE), Boston, MA; July 2003

Massachusetts Extended Care Federation Legal Update, Westborough, MA; June 2003

DC Bar Health Law Section, **HIPAA** Administrative Simplification Subtitle Compliance, Washington, DC; June 2003

American Physical Therapy Association, **HIPAA** Compliance, Washington, DC; June 2003

Behavioral Aspects of Bioterrorism, Legal Issues, Washington, DC; June 2003

HIPAA SUMMIT West, **HIPAA** Enforcement, Seattle, WA; May 2003

Merrimack Valley Physicians, Inc., **HIPAA** for Doctors, Andover, MA; May 2003

Workgroup for Electronic Data Interchange Medical Banking audioconference; May 2003

Health Care Compliance Association, Integrating Privacy & Security, New Orleans, LA; April 2003

American Telemedicine Association, Legal and Regulatory Issues in Telemedicine, Orlando, FL; April 2003

HIPAA SUMMIT Data Code Sets audioconference; April 2003

U. S. Navy Professional Development Seminar, **HIPAA**, Bethesda, MD; March 2003

HIPAA Summit Co-Chair, **HIPAA** Update, Washington, DC; March 2003

Massachusetts Dental Society, **HIPAA** for Dentists, Natick, MA; March 2003.

Medical Banking Project, **HIPAA** Security Rule audioconference; March 2003

WEDI SNIP **HIPAA** Keynote Presentation, Chicago, IL; March 2003

HIPAA Transactions **HIPAA** Summit audioconference; February 2003

International Association of Privacy Officers, **HIPAA** Compliance, Washington, DC; February 2003

HIPAA Compliance for Long Term Care, Norwell, MA; February 2003

ABA Health Law Section Emerging Issues, **HIPAA** Business Associate Agreements, Miami, FL; February 2003

Alabama Physicians, **HIPAA** Compliance, Birmingham, AL; February 2003

NJ CPAs **HIPAA** Compliance, Woodridge Metro, NJ; February 2003

Analysis of the Final **HIPAA** Security Rule, audioconference sponsored by the **HIPAA** Summit; February 2003

Merle West Medical Center, **HIPAA** Compliance, Klamath Falls, OR; February 2003

ABA Health Law Section **HIPAA** Enforcement audioconference; February 2003

HIPAA Compliance, 6th NATIONAL CONGRESS ON HEALTH CARE COMPLIANCE, Washington, DC; February 2003

Yankee Dental Congress, **HIPAA** for Dentists, Boston, MA; January 2003

ABA Health Law Section **HIPAA** Privacy audioconference; January 2003

HIPAA Basics and Security, American Lawyer Legal Tech, New York, NY; January 2003

HIPAA for Health Plans, New England Mutual Health Plan Services, Inc., Tampa, FL, 2003

ABA Health Law Section **HIPAA** Transactions audioconference; January 2003

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HCCA HIAA Forum: Benchmarking Your Progress, San Diego, CA; December 2002

OCR's Role in **HIPAA** Privacy Rule Implementation and Enforcement -- A National Audioconference Sponsored by **HIPAA** Summit Audioconferences; December 2002

National Corrections Telemedicine Conference, University of Arizona Health Sciences Center; Tucson, AZ; November 2002

e-PA Alliance **HIPAA** Summit, Hershey, PA; October 2002

University of Vermont School of Medicine/Fletcher Allen Healthcare Telemedicine; Burlington, VT; October 2002

National **HIPAA** Summit, Baltimore, MD; October 2002

The Federalist Society, Philadelphia, Pennsylvania; Speech, Privacy and Drug Program; May 2002

The MEDSTAT Group, **HIPAA** Developments/Status; Las Vegas, Nevada; April, 2002

National **HIPAA** Summit; Washington, DC; April 2002

Massachusetts Extended Care Federation, **HIPAA**; Newton, Massachusetts; April 2002

American Association of Homes & Services for the Aging, **HIPAA**; Washington, DC; April 2002

HIPAA Summit West II, San Francisco, California; March 2002

American Bar Association Emerging Issues in Healthcare Law; Phoenix, Arizona; March 2002

American Health Lawyers Association 2002 Long Term Care Program; New Orleans, Louisiana; February 2002

5th Annual National Congress on Health Care Compliance; Privacy/Data Security; Washington, DC; February 2002

WellMed, Inc. Conference Board Meeting; New York City, New York; February 2002

American Society of Anesthesiologists; Practice Management; Phoenix, Arizona; February 2002

Massachusetts Dental Society, Privacy/Security; Boston, Massachusetts; February 2002

Privacy Officers Association, Privacy/Data Security Summit; Washington, DC; January 2002

Danville Regional Medical Center, **HIPAA**; Danville, Virginia; January 2002

2002 Annual HIMSS Conference, Mock Trial; Atlanta, Georgia; January 2002

Office for the Advancement of Telehealth, U.S. Department of Health and Human Services; Telemedicine; Bethesda, Maryland; January 2002

American Health Lawyers Association; 2001 Health and the Information Age; Seattle, WA; December 2001

MIS Training Institute, Conference on PKI Interoperability; Cambridge, Massachusetts; December 2001

Faulkner Hospital, Patients' Rights; Boston, Massachusetts; November 2001

Quintech Resources, Inc., **HIPAA**; Philadelphia, Pennsylvania; November 2001

National Corrections Telemedicine Conference, Telemedicine Legal & Regulatory Issues; Tucson, Arizona; November 2001

National Commission on Correctional Healthcare, **HIPAA**; Albuquerque, New Mexico; November 2001

WEDI SNIP; **HIPAA** Implementation Summit; Orlando, Florida; November 2001

Michigan Society of Healthcare Attorneys; MSHA Annual Meeting; Dearborn, Michigan; November 2001

American Health Lawyers Association, Fundamentals; Chicago, Illinois; November 2001

American Bar Association Section on Science and Technology 1st Annual Information Security Day; Washington, DC; November 2001

First Point Healthcare Group, 2nd **HIPAA** Conference; San Juan, Puerto Rico; November, 2001

South Shore Physician Hospital Organization, **HIPAA**; Weymouth, Massachusetts; October, 2001

American Health Lawyers Association, Tax Program Legal Ethics; Washington, DC; October 2001

Harvard School of Public Health; Data Protection, eSign, Gramm-Leach-Bliley and **HIPAA**; Boston, Massachusetts; October 2001

American Conference Institute, **HIPAA**; New York, New York; October 2001

National **HIPAA** Summit; Washington, DC; October 2001

Massachusetts Medical Society, Telemedicine; Waltham, Massachusetts; October 2001

Alcoholism & Substance Abuse Providers of New York (ASAP), **HIPAA**; Saratoga Springs, New York; October 2001

Hillcrest Healthcare System, **HIPAA** Update; Scottsdale, Arizona; October 2001

Delta Dental Plan of Iowa, **HIPAA**; Dallas, Texas; October 2001

American Health Care Association, **HIPAA**; Boston, Massachusetts; October 2001

VIPS, Inc., **HIPAA** Fraud Compliance; Washington, DC; October 2001

Behavioral Healthcare Tomorrow, **HIPAA** Compliance; Washington, DC; October 2001

Self Insurance Institute of America, E-Sign Law Signals; Chicago, Illinois; October 2001

First Point Consulting, **HIPAA**; Puerto Rico; September 2001

OAo HealthCare Solutions, Inc., **HIPAA**; Las Vegas, Nevada; September 2001

Business Law Today; Gramm-Leach-Bliley Conference Seminar; Chicago, Illinois; September 2001

MIS Training Institute, Security Takes a Stand: A Mock Trial; Chicago, Illinois; September 2001

American Psychological Association, Digital Privacy and **HIPAA**; San Francisco, California; August 2001

University of Michigan Health System, Legal/Regulatory Presentation; Ann Arbor, Michigan; August 2001

NY Association of AHSA, **HIPAA**; Canandaigua, New York; August 2001

HFMA-Louisiana Chapter, **HIPAA**; New Orleans, Louisiana; August 2001

HIPAA Summit - The Health Colloquium at Harvard; **HIPAA**; Cambridge, Massachusetts; August 2001

American Bar Association - Annual Meeting; Chicago, Illinois; August 2001

American Health Lawyers Association, HIMSS Teleconference On-Line Seminar; Enforcing **HIPAA**; August 2001

American Association for Medical Transcription; Leadership Conference - **HIPAA**; Arlington, Virginia; August 2001

American Association of Medical Society Executives; **HIPAA**; Everything You Ought to Know; Washington, DC; July 2001

Association for Electronic Health Care Transaction; Annual Washington Policy Forum - **HIPAA**; Washington, DC; July 2001

HIPAA Summit West; HealthCare Privacy Laws; San Francisco, California; Jun, 2001

Pharmaceutical/Industry Summit, **HIPAA** & Healthcare; Arlington, Virginia; June 2001

American College of Clinical Engineering; Symposium on **HIPAA**; Baltimore, Maryland; June 2001

First Point Healthcare Group, **HIPAA**; Puerto Rico; June 2001

American Telemedicine Association, Telemedicine; Fort Lauderdale, Florida; June 2001

Catholic Health Initiatives, **HIPAA**; Cincinnati, Ohio; May 2001

NJ Association of Health Care Facilities; HINT/**HIPAA** Enforcement; Jamesburg, New Jersey; May 2001

Healthcare User Group, **HIPAA**; San Diego, California; May 2001

Kentucky Hospital Association, **HIPAA** Mock Trial; Louisville, Kentucky; May 2001

Catholic Health Initiatives, **HIPAA**; Denver, Colorado; May 2001

California Rural Indian Health Board, Privacy & **HIPAA**; Monterey, California; May 2001

California Medical Association, A Meeting of the Minds; San Francisco, California; May 2001

Privacy Officers Association, **HIPAA** & Privacy in Healthcare; Arlington, Virginia; May 2001

Massachusetts Bar Association, Privacy Issues Re: On-Line Businesses; Boston, Massachusetts; April 2001

4th Annual Congress on Health Care Compliance; **HIPAA** Compliance; Washington, DC; April 2001

Workgroup for Electronic Data Interchange (WEDI); Annual Conference; e-Sign Law Signals Substantial Change: When & How?; San Diego, California; April 2001

KPMG Consulting; HCFA Nurses Aid Registry Project; Privacy Issues in Health Care; Baltimore, Maryland; April 2001

Missouri/Kansas Bar Association, 2001 Health Law Seminar; The New Privacy and Security Regulations: Advising Clients in the Age of **HIPAA**; Kansas City, Missouri; March 2001

American Health Lawyers Association; 2001 Medicare/Medicaid Seminar; Baltimore, Maryland; March 2001

New Jersey Association of Health Care Facilities, **HIPAA**; Atlantic City; March 2001

American Society of Clinical Pathologists; Spring Meeting; **HIPAA**; Chicago, Illinois; March 2001

American Bar Association, eHealth Seminar; **HIPAA**; Philadelphia, Pennsylvania; March 2001

Nebraska Health Care Association, **HIPAA**; Kearney, Nebraska; March 2001

American Association of Homes and Services for the Aging; Process Public Policy Conference; **HIPAA**; Washington, DC; March 2001

Practicing Law Institute; The Healthcare E-Commerce Revolution; **HIPAA**; New York City; March 2001

Massachusetts Extended Care Federation; Newton, Massachusetts; Get Hip to **HIPAA** - Standards for Electronic Transactions, Privacy and Security; March 2001

National **HIPAA** Summit; Washington, D.C.; Legal Strategies in Privacy, Confidentiality & Security including **HIPAA** Compliance; March 2001

American Health Lawyers Association, Washington, D.C.; New Privacy and Security Regulations: Advising Clients in the Age of Privacy, Confidentiality and Security, including **HIPAA** Compliance; February 2001

Catholic Health Initiative, Chicago, Illinois; Privacy, Confidentiality and Security including **HIPAA**: A Metaphor; February 2001

American Health Lawyers Association - Hospitals and Health Systems Law Institute; San Antonio, Texas; Privacy, Confidentiality and Security including **HIPAA**; February 2001

New England **HIPAA** Workgroup; Wellesley, Massachusetts; Privacy & Security - Privacy, Confidentiality and Security including **HIPAA**, The Metaphor; February 2001

American Society of Clinical Pathologists Telephone & Internet Teleconference; national program by subscription; Sharing Data -- Keeping - Secrets; February 2001

American Bar Association - Emerging Legal Issues; Orlando, Florida; Panel 1: Industry Change Marches On, Panel 2: The Government's Response to Technology; February 2001

American Health Lawyers Association - 2001 Long Term Care Program; Las Vegas, Nevada; Contracting - Privacy, Confidentiality and Security including **HIPAA** and Technology Issues; February 2001

Healthcare Information and Management Systems Society; New Orleans, Louisiana; Defending Yourself in Court - Privacy, Confidentiality and Security including **HIPAA**; February 2001

American Bar Association - PowerPoint Presentation via Conference Call; national program by subscription; Privacy, Confidentiality and Security including **HIPAA**; January 2001

Institute of Cybermedicine, Belmont, Massachusetts; E-Health and Health Information Technology; January 2001

American Health Lawyers Association - E-Health and the Information Age; San Francisco, California; Corporate Compliance Plans Under Privacy, Confidentiality and Security Including **HIPAA** and Beyond; December 2000

Advanced Technology Institute - Telehealth Panel Discussion; Washington, D.C.; Security Issues; December 2000

University of Arizona - Second Annual National Corrections Telemedicine Conference; Tucson, Arizona; Privacy, Confidentiality and Security Issues in Telemedicine; November 2000

Kentucky Hospital Association, Bowling Green, Kentucky; Privacy, Confidentiality and Security including **HIPAA** - Executive Briefing; October 2000

Healthcare Strategy Institute - First National **HIPAA** Summit; Washington DC; Basic Legal Issues and Strategies in Privacy, Confidentiality and Security including **HIPAA** Compliance; October 2000

Tennessee Bar Association; Nashville, Tennessee; Privacy and Security of Health Information under Privacy, Confidentiality and Security Including **HIPAA**; October 2000

American Health Care Association- 51st Annual Convention; Orlando, Florida; Using Technology to Improve Care; October 2000

American Bar Association - eHealth Law 2000; Chicago, Illinois; Contractual Issues - Case Study; October 2000

Internet Healthcare Coalition, Las Vegas, Nevada; Quality Healthcare Information on the Net; October 2000

MIS Training Institute - Health Section 2000, Dallas, Texas; Security Takes the Stand: A Mock Trial; September 2000

American Health Lawyers Association, Miami Beach, Florida; Legal Ethics: Healthcare Law; September 2000

Arizona Association of Health Care Lawyers - Annual Meeting; Phoenix, Arizona; Telemedicine; September 2000

American Society of Medical Association Counsel, Jackson Hole, Wyoming; Healthcare Meets the Internet; September 2000

Massachusetts Health Information Management Association, Natick, Massachusetts; Privacy, Confidentiality and Security including **HIPAA** and Managed Care: Challenges and Opportunities; September 2000

Massachusetts Extended Care Federation; Dedham, Massachusetts; Privacy, Confidentiality and Security including **HIPAA**; September 2000

Florida Bar Association - eMedicine: Legal and Regulatory Issues; Tampa, Florida; eHealth Contracting: Risks and Opportunities; September 2000

National Business Institute; Boston, Massachusetts, The Law of Telemedicine in Massachusetts; August 2000

The eHealth Colloquium at Harvard University, Cambridge, Massachusetts; Privacy, Confidentiality and Security; August 2000

Massachusetts Extended Care Federation, Dedham, Massachusetts; Surviving Surveys and De-Certification Actions; August 2000

American Bar Association - ABA Annual Meeting; London, UK; International Telemedicine Issues; July 2000

Symposium on eHealthcare Strategies; San Francisco, California; Privacy, Confidentiality and Security including **HIPAA**; June 2000

Kentucky Hospital Association; Louisville, Kentucky; Privacy, Confidentiality and Security including **HIPAA**; June 2000

American Health Lawyers Association - 2000 Annual Meeting, Washington, D.C.; The Internet Lawyer: Streamlining Your Practice; June 2000

Massachusetts Extended Care Federation, Lexington, Massachusetts; Surviving Surveys and De-Certification Actions; June 2000

American Telemedicine Association - Fifth Annual Meeting; Phoenix, Arizona; Privacy, Confidentiality and Security including **HIPAA** and Telemedicine; May 2000

Connecticut Medical Defense Lawyers Association, New Haven, Connecticut; Privacy, Confidentiality and Security including **HIPAA**; May 2000

American Health Lawyers Association, Chicago, Illinois; Health Information and Technology Program; Contracting for E-Commerce; May 2000

University of Buffalo Law School, Buffalo, New York; Telemedicine: Evolving Legal and Regulatory Issues for the Health Professional; April 2000

Massachusetts Continuing Legal Education, Boston, Massachusetts; Health and Hospital Law Conference; April 2000

American Health Lawyers Association, Baltimore, Maryland; Institute on Medicare/Medicaid Payment Issues; March 2000

Symposium On Healthcare Internet and E-Commerce, Washington, D.C.; Legal, Regulatory and Ethical Issues; Confidentiality and Security including **HIPAA** and Beyond: The Regulation of Privacy and Confidentiality in Cyberspace; and Intellectual Property: Healthcare Process Patents, Trade Domains, and Copyright Moral Rights; March 2000

Massachusetts Hospital Association, Boston, Massachusetts; Privacy, Confidentiality and Security including **HIPAA**; March 2000

Massachusetts Bar Association, Boston, Massachusetts; Lawyers and Multidisciplinary Practice; January 2000

Massachusetts Bar Association, Boston, Massachusetts; Law Firm Mergers; December 1999

Massachusetts Bar Association, Boston, Massachusetts; Law Firm Mergers/Acquisitions and Multidisciplinary Practice; November 1999

Florida Hospital Association, Orlando, Florida; Telemedicine and Health Care Technology; November 1999

Massachusetts Extended Care Federation, Worcester, Massachusetts; 59th Annual Meeting and Trade Show: The Impact of State Boards of Registration on Protecting the Public; November 1999

University of Vermont Medical School, Burlington, Vermont; How To Build A Telemedicine Program; October 1999

American Bar Association, Washington, D.C.; Health and Welfare Benefit Plans; October 1999

Massachusetts Assisted Living Facilities Association, Boston, Massachusetts; Why Alternative Dispute Resolution? October 1999

Center for Telemedicine Law, Washington, D.C.; National Conference on Legal and Policy Developments; October 1999

Florida Bar Association, Tampa, Florida; General Meeting: Telemedicine and Electronic Medical Records; September 1999

Health Contracts, Chairman of American Health Lawyers Association periodic national seminars; prior to 1999

V. List of All Other Cases In Which, During the Previous Four Years, I Have Testified as an Expert at Trial or By Deposition

During the previous four years, I have not testified as an expert at trial or by deposition. I have previously been consulted and I have provided advice and information relating to matters involving **HIPAA**, and privacy and security of health information, numerous times, including in connection with: (1) litigation pending in the Superior Court of the State of California, County of San Diego, Central Division, during June 2003 when I was asked to be a designated expert witness for a party to such litigation and a notice of deposition was served but the litigation settled before my deposition occurred; and (2) an arbitration proceeding pending this year for which I submitted a memorandum containing my opinions involving protection and disposition of health information.

VI. Statement of the Compensation to be Paid for My Study and Testimony in this Case

My hourly time charge for expert opinions, including study and testimony, is \$650 dollars per hour, plus reasonable reimbursable disbursements and charges.

ASG/tt

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