

Careers in Health Law and Life Sciences



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CONSIDERING A CAREER IN HEALTH LAW?

Healthcare law embraces almost every substantive area of law, and health law employment opportunities can be found in a wide variety of settings. This guide created by the American Health Lawyers Association and published in collaboration with the National Association for Law Placement provides an overview for law students and lawyers considering a career in health law, offering —

- an introduction to the field;
- descriptions of the various health law practice settings;
- the answers to frequently asked questions on preparing for a career in health law; and
- a list of selected online resources.

AN INTRODUCTION TO HEALTH LAW

Health law consists of a variety of legal specialties practiced in a highly regulated industry that depends for a substantial part of its revenues upon governmental programs. Where many other legal specializations focus on one legal issue that cuts across a number of different industries, health law instead focuses on one industry with a multitude of legal issues.

The origins of health law can be traced in part to the inception of the Medicare program in 1964-65. Subsequent to this development, the majority of health law attorneys counseled healthcare providers and payors on myriad legal and regulatory matters in diverse practice settings including private practice, state or federal government employment, and as in-house counsel with a closely held corporation or a publicly traded corporation. Today, medical advances along with the development of new drugs, devices, and biotechnology have improved clinical outcomes while creating corresponding new legal issues as the healthcare industry evolves from being primarily a services industry to being a services and products industry.

In response to ongoing changes in the healthcare landscape resulting from financial, regulatory, and technological pressures — as well as to the complexities of the healthcare delivery system — more health law attorneys today emphasize subspecialties within their practices, and



fewer are health law general practitioners. Each sector of the healthcare industry requires particular knowledge and experience as well as an understanding of the dynamics, economics, and politics of the healthcare industry. This growth in specialization also is evident in the increasing number of boutique law firms devoted to health and life sciences law and the number of subspecialties within law firm health law departments.

On the transactional side, healthcare law involves corporate mergers, acquisitions, formations, contracts and joint ventures, dissolutions, and financing. From a regulatory perspective, healthcare law regularly involves the analysis of legal requirements and administrative advocacy and hearings. Healthcare representation can involve a large component of “operational” counsel — assisting a client with the day-to-day concerns of providing patient care, such as issues of consent, privacy of healthcare information, human resource and labor law issues, medical staff relationships, equipment and supply purchasing, and vendor arrangements. Litigators are involved in antitrust actions.

Opportunities exist in a variety of practice settings, healthcare industry sector, and substantive health law areas. Each of the stakeholders in the healthcare field requires legal services. The full range of institutional healthcare providers — such as hospitals and health systems, outpatient service providers, long-term care facilities and systems, psychiatric facilities, and diagnostic service providers such as imaging and laboratory companies — all require representation and counsel. Individual providers, such as physicians and other providers and their practice groups, also employ or engage counsel. Similarly, third-party payors, from insurers to health maintenance organizations and federal healthcare programs, require legal representation. The pharmaceutical and medical device industries have become significant participants in the healthcare field and present many opportunities. Similarly, trade and professional associations and accrediting or licensing organizations engage in advocacy and oversight with a strong legal component. Finally, lawyers are engaged in teaching health law in a variety of settings, including law schools, business schools, medical schools, schools of public health and health administration, and colleges that offer allied health practitioner degrees.



TYPES OF HEALTH LAW PRACTICES

Law Firms

Many law firms include health law as a specific area of practice. Their client base includes such institutions as hospitals and health systems, outpatient service providers, long-term care facilities, psychiatric institutions, diagnostic service providers such as imaging and laboratory companies, pharmaceutical and medical device manufacturers, multi-specialty physician group practices or clinics and their insurers or third-party payors, trade associations, and medical equipment manufacturers. Many firms also represent individual healthcare professionals, such as physicians, nurses, allied health practitioners, and related professional organizations.

The scope of practice at law firms runs the gamut of health law. Some firms cover a full range of health law, from corporate transactions, joint ventures, and related regulatory practice to counseling on operational issues, commercial and medical malpractice litigation, health information and technology, administrative law, white collar criminal defense, and third-party payor and federal reimbursement matters. Many firms also provide government relations work to healthcare clients on both the federal and state level. Moreover, as life sciences products continue to proliferate in the healthcare marketplace, there will be an increased focus on life sciences.

Large Law Firms. Large law firms with healthcare practices generally organize their practices in one of two ways — either as a dedicated department of the firm with many lawyers (as many as 100 in the largest health law practices) representing various legal specialties all working for healthcare and life sciences industry clients or in a more matrix-like practice group that combines a smaller number of healthcare regulatory specialists with lawyers from other departments, such as corporate, tax, antitrust, and litigation, for purposes of marketing and coordinating work for healthcare clients. In either case, lawyers in the healthcare and life sciences practices of large firms have opportunities to work for clients in a wide range of industry sectors, including hospitals, health plans, medical groups, specialty providers, pharmaceutical and medical device manufacturers, biotechnology companies, and banks and private equity funds investing in the healthcare industry.



Lawyers working in large firm healthcare practices may have opportunities to experience a wide range of subspecialties of law, including regulatory, corporate/transactional, litigation, tax, antitrust, employment, and many others. Over time, however, they will tend to specialize in one or only a few of these areas as they relate to healthcare organizations because of the complexity of the subspecialties. A large firm practice can be very exciting because of the wide range of choices and opportunities, but for some individuals finding an area of focus may be challenging.

When recruiting, health law practices in large firms generally perceive an attorney's interest in health law to be a positive factor and place their principal emphasis, as other firms do, on the lawyer's capabilities — analytical abilities, communication skills, problem-solving skills, and an ability to maintain personal relationships. Experienced health lawyers possess a unique mix of technical legal skills and a deep knowledge of how the healthcare industry works, making them very valuable to clients.

Small Law Firms. Some small firms have healthcare practices that span the full range of healthcare clients and subspecialties. These law firms in essence operate like a freestanding healthcare department in a large law firm. In this situation, as with a broad large law firm practice, the practice will reflect a wide range of health law areas. Other small firms have a specific practice focus, such as federal reimbursement, malpractice, exempt organization law, health information and technology, specific regulatory expertise, or representation of *qui tam* relators. Additionally, a small law firm may have a specific institutional client or group of clients for whom it serves as outside general counsel. As in any private law firm, a small firm's practice will tend to focus upon substantive areas of law that track the legal needs of its client base, and the focus of the practice will often shift and develop to track emerging areas of health law.

Solo Practice. Like small firms, solo practitioners may have a healthcare practice that spans the full range of healthcare clients and subspecialties. In many cases, the solo health law attorney focuses on a particular area of health law and is sought out for his or her expertise. For example, solo healthcare practitioners focus on state and federal administrative law and interactions with regulatory



agencies. A major benefit of this focus is the development of relationships with the individuals who work for the governmental agencies that regulate all aspects of health-care from state licensing agencies to federal agencies.

Advances in technology and telecommunications have made it possible for small firms and solo practitioners to provide sophisticated services and stay well informed about emerging trends — and even to set trends — as they serve their clients. A successful solo practitioner tends to be a self-starter who is able to use technology to be efficient and well-organized. Ultimately many will find that clients hire individual lawyers rather than firms.

Academic and Research Institutions

Some health attorneys work within universities or in other academic settings. For example, many law schools, medical schools, and schools of public health employ attorneys to provide instruction for either classes or seminars in health law or on such related issues as hospital and public health administration. Academic and research institutions may also require legal counsel themselves on questions of federal funding for medical and health-related research. In some cases such research, notably genetic research, has resulted in the creation of new types of corporations and, accordingly, new legal questions concerning the research itself.

Health law has grown to occupy an important part of the upper division curriculum in many law schools, and virtually all accredited law schools offer some courses relating to healthcare matters. Consequently, opportunities to teach health law in a law school environment have expanded significantly. Some law schools have as many as six or seven faculty members who devote some or most of their teaching and research to health law. In addition, opportunities for teaching health law on a full-time basis exist in business schools, schools of public health and health administration, and medical schools. Finally, many law schools rely on practitioners teaching as adjunct faculty to fill out their health law curriculum; these usually are part-time positions that entail teaching two or three hours per week. Academic healthcare lawyers often engage in private consulting, public interest advocacy, or other endeavors outside of their teaching responsibilities. The market for tenure track positions is highly competitive with considerable emphasis placed on an applicant's performance in law school.



Government: Federal, State, and Local

Opportunities for health lawyers exist at every level of government and provide valuable experience. Government attorneys can be in-house counsel to government healthcare providers and state university medical centers, counsel to myriad regulatory and licensing agencies, or prosecutors or enforcement counsel in administrative, civil, or criminal healthcare matters. The increasing importance of governmental regulation of healthcare operations and reimbursement has created a premium in private practice for attorneys with relevant governmental experience.

The licensure, regulation, and discipline of healthcare physicians and other providers historically have been a core function of state government, as is the regulation of health insurance. State departments of health, human services, and insurance typically are key regulators and enforcers. State and local governments often play important roles as safety net providers of some healthcare services, especially for mental health and substance abuse services, as well as through state university academic medical centers. State attorney general offices often have special Medicaid enforcement units and also play an important role in the regulation of not-for-profit and charitable healthcare entities. Given the significance of healthcare to a state's citizens and economy, state legislatures often have numerous committees to address aspects of healthcare regulation. All of these agencies and committees have a need for and employ attorneys.

At the federal level, similar opportunities are available. The United States Department of Health and Human Services employs attorneys to advise public health agencies (e.g., the Centers for Disease Control and Prevention, the National Institutes of Health), regulatory agencies (e.g., the Food and Drug Administration and the Centers for Medicare and Medicaid Services), and investigatory/law enforcement agencies (e.g., the Office of the Inspector General and the Office of Civil Rights).

There are also many other government agencies that employ health lawyers, including the Federal Trade Commission, which has a major role in healthcare antitrust issues, the Department of Veterans Affairs, which operates the Veterans Administration healthcare system, the Department of Defense, which provides healthcare to the



active military and their dependents, the Internal Revenue Service, which regulates not-for-profit tax and governance issues, the Labor Department, which regulates employer health plans, and the Office of Personnel Management, which operates the federal employee health benefit plan. Attorneys at the various divisions of the Justice Department also are involved in healthcare issues in civil and criminal litigation, including antitrust, taxation, privacy, Medicare and Medicaid fraud, medical malpractice defense involving federal facilities, and the defense of federal programs and regulations.

Corporations, Other Business Entities, and Consulting Firms

As the business of healthcare delivery expands, so does the need for expert legal counsel. Increasing numbers of corporations involved in healthcare are therefore employing in-house counsel, as are the trade associations to which such companies belong. Pharmaceutical and medical device manufacturers are examples of high-growth industries. Other regulated industries include manufacturers of hospital supplies and equipment, suppliers of hospital and other facility services, and contractors for hospital medical services. Attorneys employed by such businesses deal not only with regulations and administrative law but also with such health and business-related issues as corporate acquisitions, securities, tax, real estate, reimbursement, negligence, and labor relations, including employee health coverage. Similar issues arise for the increasing number of attorneys employed by large accounting firms to handle the legal problems of those firms' corporate healthcare clients. Healthcare consulting firms may also employ health law attorneys to consult on various operational and strategic issues.

Providers of Healthcare: Organizations and Institutions

Healthcare providers all along the continuum of care employ health lawyers within their facilities. While some providers require extensive legal assistance on a regular, in-house basis (e.g., large hospitals affiliated with universities as teaching centers), others may retain attorneys in private practice on a case-by-case basis or under a general counsel arrangement. Provider institutions requiring legal counsel may include proprietary and nonprofit hospitals,



skilled nursing and intermediate care facilities, home health agencies, ambulatory care facilities, mental health institutions, outpatient and other clinics, ambulatory surgical centers, alcohol and drug abuse treatment centers, health maintenance organizations, medical group practice plans (including individual practice associations and other prepaid group plans), shared services organizations, rehabilitation clinics or agencies, and pharmaceutical and medical device manufacturers.

The legal issues confronting providers vary with the institution and its mission. A large teaching hospital might require advice on a broad range of tax, reimbursement, or contract questions, while a private psychiatric hospital would have more specialized issues. Common to these institutional settings, however, is the need for in-house counsel to operate in a fast-paced environment and respond to a broad array of health law issues.

Non-Institutional Providers of Healthcare

As the nation's healthcare system becomes more complex and technologically oriented, all healthcare practitioners — both physicians and non-physicians — are subject to an increasing barrage of regulations and litigation. This, in turn, has created a need on behalf of such practitioners for legal advice in the areas of licensure, reimbursement, malpractice, and fraud and abuse. Health lawyers today are retained by physicians, dentists, optometrists, podiatrists, pharmacists, chiropractors, and allied health personnel such as nurse practitioners, nurse anesthetists, X-ray technicians, holistic practitioners, naturopaths, and the like. In addition to the issues mentioned previously, legal advice is frequently sought by physicians and others who wish to establish professional corporations for tax and liability purposes or arrangements with institutional providers.

Professional and Trade Associations

Both institutional and non-institutional healthcare providers have formed professional or trade associations. Currently numbering in the hundreds, such groups increasingly retain one or more attorneys to handle either the legal problems of individual members or broader legislative and regulatory issues affecting the membership at large. Many large groups or associations have sizeable legal departments that are charged with lobbying for legislation, as well as



with monitoring it and reporting to members on judicial and regulatory developments in health law. Some health attorneys also are retained by unions, either on an in-house or outside counsel basis. Most national unions maintain legal departments, while others have Social Security, occupational health, or broader health departments. Union attorneys may be involved in negotiating for health plans or in organizing employees of provider institutions. Attorneys who work for professional or trade associations often are generalists on health law and policy issues and have strong communication skills.

Third-Party Payors

Third-party payors (typically insurance carriers licensed by states to underwrite or administer claims) also rely on health attorneys to guide them through the maze of regulations governing their businesses. State regulations govern the scope, operation, and kinds of coverage offered, and states often examine and sometimes approve premium schedules. Issues on which third-party payors seek legal counsel involve regulation compliance, licensure, eligibility determinations, and contract and reimbursement questions. Litigation can be involved as well, particularly in the area of professional liability insurance.

Third-party payors include commercial insurance companies (e.g., Prudential and Aetna) as well as Blue Cross/Blue Shield plans. Some groups, such as health maintenance organizations, pay for and provide care, while the federal and state governments also can be considered third-party payors in terms of Medicare and Medicaid. A number of business organizations self-insure, with a large percentage of these contracting with third-party administrators to administer and pay claims on behalf of the organization. Moreover, there are an increasing number of preferred provider organizations that contract with an insurer or a third-party administrator to provide healthcare at reduced rates to the insurer's or administrator's clients, and this presents legal counsel who possess expertise in these areas with additional employment opportunities.



Capital Financing Organizations

The dynamic nature of the healthcare industry is reflected in the ongoing construction, expansion, and modernization of hospitals and other healthcare facilities. Such construction requires significant capital, which is made available through myriad financing alternatives for nonprofit and for-profit healthcare providers, including bank loans, stock sales to raise capital, tax-exempt bond issuance, and other financing mechanisms. These financing arrangements require the expertise of bond underwriters, investment companies, and stock brokers working in conjunction with attorneys. The uncertain nature of financial markets makes critical an understanding of available financing arrangements that are acceptable to regulatory entities. Attorneys who interact with underwriters and investment companies must have a broad understanding of both the overall healthcare delivery system and key capital finance issues in order to assist entities in successfully pursuing the best available financing options.

FREQUENTLY ASKED QUESTIONS ABOUT PREPARING FOR A CAREER IN HEALTH LAW

What law school courses should a student take to further a career in health law?

Most employers look for a well-rounded law student with solid problem solving, communication, and writing skills. As a result, a sound base in core legal areas is the best preparation. Contracts, administrative law, tort law, labor law, tax law, antitrust law, and constitutional law are important courses. Familiarity with the principles of intellectual property also can be valuable, as can some experience in negotiation obtained through workshops or law school clinic experience. Health law classes — including both survey courses and classes with a specific focus such as bioethics, healthcare research, and healthcare regulation — provide valuable background and demonstrate an interest in the area.



What summer and post-graduate fellowship opportunities exist?

With respect to summer and post-graduate fellowship opportunities, students should check the websites of local law schools. Many summer programs abroad offer at least one health law course. A number of schools offer an L.L.M. in health law. This degree is useful to individuals who have not had the opportunity to study health law in depth at their law school or who are interested in transitioning from one area of practice to another. Most programs accept applicants who are recent graduates of law school as well as those who have been in practice for a number of years.

What job search resources are available for students?

Law school career offices can be one of a student's most valuable resources — offering information, programming, and career counseling related to choosing a career path, drafting a resume, researching employers, interviewing, and more.

Numerous job search sites can be found on the Internet, and key "Selected Health Law Job-Related Websites" are listed at the conclusion of this guide. AHLA publishes a monthly listing of featured job opportunities across the country and lists many more in its online Job Bank. Additionally, many federal and state governmental agencies post available job openings online as do many other entities mentioned in this guide that employ healthcare lawyers. Social networking sites also may provide notice of available job opportunities.

What types of skills are needed and what personalities are well suited for a career in health law? What specifically is a hiring attorney looking for in a recent law school graduate? And what would be relevant work experience prior to moving into a healthcare and life sciences practice?

Problem-solving abilities, communication skills, and writing proficiency serve as the foundation of a good health lawyer. Given the high degree of regulation in the healthcare field, a facility to work with statutory and regulatory codes also is important. Because health law often involves the interface between facilities and professional services providers, between the government and the regulated entities, and among patients, providers, and payors, good



communication and negotiation skills are valuable. Health law is dynamic and follows developments in the healthcare industry, although the law sometimes lags behind the developments. Therefore, flexibility and the ability to learn new substantive areas of law is important for a health lawyer.

In terms of work experience, specific health-related experience can demonstrate interest in the field and provide a steppingstone in terms of familiarity with specific processes or activities. Any work experience, however, that demonstrates creative problem solving, excellent communication skills, and intellectual ability is helpful.

Should students focus on a particular area of health law?

Healthcare law continually evolves and changes to follow the needs of the healthcare industry, its payors, and regulators. In the 1980s, much of healthcare law revolved around medical malpractice, medical staff relationships, bond financing, and federal reimbursement. In recent years, the practice has shifted toward transactional work and regulatory issues under the Anti-Kickback Law, the Stark Law, the False Claims Act, and their state equivalents, as well as patient privacy and security under HIPAA. While experience in a specific area can be helpful, the ability to learn new areas of law remains vitally important for all health lawyers.

How will employers view job applicants who have had another career before attending law school?

A career before going to law school can indicate maturity and experience in working with people — characteristics that are important in developing the requisite skills required of an attorney. Students who have had another career prior to attending law school should think about what in their experience might be helpful in working with other lawyers and clients, as well as in managing deadlines and working in specific substantive areas. Many employers will welcome this type of experience in a new lawyer. Depending upon the specific practice areas, many law firms view prior healthcare experience such as nursing, health administration, or work as a technical assistant to be useful. In addition, individuals with a business background (e.g., accounting and finance) often find that experience beneficial.



If an individual wishes to transition from a private law practice to a governmental position, is another degree in public health necessary or useful?

In certain specialized areas, a second degree in public health or healthcare administration has helped individuals obtain governmental positions. In particular, the Food and Drug Administration, Centers for Disease Control and Prevention, and certain units at Health and Human Services find that a background in epidemiology, statistics, and business administration are useful supplements to legal training. While a second degree is not essential, it does indicate an individual's commitment to healthcare and provide a depth of knowledge that can be useful.

Most governmental employers will be looking for the ability to analyze problems, work with clients and other counsel, and provide clear, concise advice. To the extent that the second degree provides a knowledge base or opportunities that reinforce these skills, it can be perceived by a potential employer as beneficial. Given scarce resources, government agencies often are not able to provide extensive training to new lawyers and will look for applicants who already have at least some relevant expertise or experience, whether through academics, prior work, or volunteer experience. In addition, evidence of a commitment to public service often is useful.

With respect to federal health law positions, individuals are advised to bookmark and periodically check not only the main federal employment page but also the specific employment pages for the agencies in which they are especially interested because open positions are often quickly filled.

How can individuals identify small to medium size law firms that have a health law and life sciences practice?

Martindale Hubbell is a good resource to identify the scope and depth of a small or medium firm's healthcare practice. Networking with health lawyers also leads a student to these firms. Because small and medium size firms may tend to hire lawyers who are a few years out of school, networking is particularly important. The *Best Lawyers in America* also lists health lawyers, and the entire directory (as opposed to the non-subscriber online directory, which only lists lawyers who purchase a listing) can be



very helpful in identifying health law practices at small and medium size law firms. Additionally, it is helpful to review legal publications for law firm advertisements that identify the scope of firms' practices.

The American Health Lawyers Association offers a student membership at a minimal cost, and the membership increases students' networking opportunities. Professional associations such as the American Health Lawyers Association can also provide information on a range of law firms that have a health and life sciences practice.

SELECTED HEALTH LAW JOB-RELATED WEBSITES

American Health Lawyers Association Job Bank —
www.healthlawyers.org/jobbank

Department of the Treasury Internal Revenue Service, IRS Careers — www.irs.gov

Federal Trade Commission —
www.ftc.gov/ftc/oed/hrmo/jobops.shtm

Minority Corporate Counsel Association Job Bank —
<http://www.tools.mcca.com/MCCA/JobBank/>

U.S. Federal Government Official Job Site —
<http://usajobs.gov>

U.S. Department of Health and Human Services, Office of General Counsel — www.hhs.gov/ogc

U.S. Department of Health & Human Services, Office of Inspector General, Careers — <http://oig.hhs.gov/career/>

U.S. Department of Health & Human Services, HHS Careers — www.hhs.gov/careers/index.html

U.S. Department of Health & Human Services, Student Programs — www.hhs.gov/careers/student/index.html



ABOUT AHLA

Leading health law to excellence through education, information, and dialogue, the American Health Lawyers Association (AHLA) is the nation's largest, nonpartisan, educational organization devoted to legal issues in the healthcare field with more than 10,000 members. To learn more about membership and educational resources that are available for students, academicians, attorneys, and others interested in health law issues, go to www.healthlawyers.org.

ABOUT NALP

Founded in 1971, the National Association for Law Placement, Inc.® (NALP) is dedicated to improving legal career counseling and planning, recruitment and retention, and the professional development of law students and lawyers. To learn more about resources available from NALP, go to www.nalp.org.

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