

## Health Care

Increased regulation and rapid change within the health care industry presents significant challenges for all health care organizations, from hospitals to medical research institutions to medical device and supply manufacturers and distributors.

Foster Garvey's Health Care practice is a principal focus of our firm and consistently recognized as a top practice by *Chambers USA* and *U.S. News-Best Lawyers*. The firm's attorneys are experienced in virtually all areas of health care and life sciences law, including:

- Governance and organization of public and private hospitals
- Human subjects research
- Medical staff issues
- Regulatory compliance
- State and federal tax and tax-exempt issues
- Structuring joint ventures
- Transactions

Attorneys in our Health Care practice represent hospitals at each level of the certificate of need process and in the judicial review of planning decisions. We also represent hospitals in medical staff membership and clinical privilege controversies. Foster Garvey is proud to list several hospitals and the Association of Washington Public Hospital Districts as clients, and we have served as special counsel to the Washington State Hospital Association. Our attorneys also have experience working with academic medical centers, clinical laboratories and pathology practices, physician practices, imaging centers, behavioral health providers, and long-term care facilities, among others. We focus primarily on the following areas:

### Service Contact

Bradley J. Berg  
T 206.447.8970  
brad.berg@foster.com

### Related Professionals

Christopher Beaver  
Bradley J. Berg  
Michael S. Brunet  
Vincent P. Cacciottoli  
Christopher G. Emch  
Maurice W. Heller  
Mikaela Louie  
Andrew A. Schillinger  
Allison C. Schwartzman  
Jared Van Kirk  
Michael K. Vaska  
Adrian Urquhart Winder  
Kelly M. Woodward

### Related Services

Antitrust & Consumer Protection  
Construction  
IP & Technology  
Labor, Employment & Immigration  
Public Finance & Municipal Government  
Real Estate  
Tax  
White-Collar Defense & Investigations

### **Fraud and Abuse**

Attorneys in our Health Care practice provide comprehensive legal support to providers in connection with federal and state fraud and abuse compliance. We perform legal audits of existing contracts and financial relationships, assist clients with internal investigations, and have substantial experience in developing internal compliance programs.

### **Disputes & Litigation**

Foster Garvey assists clients with all types of health care disputes and litigation including: Certificate of Need appeals, payment disputes, billing and reimbursement actions, fraud and abuse self-disclosure and defense, anti-trust investigations and litigation, qui tam False Claims Act litigation, HIPAA and HITECH enforcement actions, commercial and contract disputes, licensing actions, medical staffing matters, employment discrimination and wrongful termination actions, and labor disputes.

### **Health Planning**

We represent clients in all stages of the Certificate of Need process. Our attorneys assist clients with background research before an application is submitted and help prepare and file applications with the state agency. We represent clients in public hearings both in support of and in opposition to pending certificate of need applications. Once the state agency has made a planning decision, our attorneys are experienced in representing clients through review of that decision, both at the administrative level in adjudicative proceedings and at the judicial level in the court system.

### **Hospital – Physician Arrangements**

Our Health Care lawyers have significant experience helping hospitals and physicians navigate the continually evolving federal and state laws and regulations. We regularly draft and negotiate the transactions between hospitals and physicians, including physician employment contracts, professional services agreements, recruitment agreements, and provider-based physician contracts and leases. We also assist with the purchase and sale of physician practices. Our Health Care team also has substantial experience in developing ventures between hospitals and physicians and providing advice on the appropriate structure and documentation.

### **Labor & Employment**

The Health Care team at Foster Garvey has substantial experience working with health care providers in connection with a full range of labor and employment matters, including labor and employment counseling, dispute resolution and litigation, labor advice, workplace misconduct and immigration matters. Our deep experience is of great benefit for health care employers to stay compliant with the labor and employment laws and can help avoid or minimize disruptive employment disputes which can interrupt your business and lead to costly, protracted litigation. Labor & Employment lawyers on the Foster Garvey Health Care team are recognized by SHRM to provide Professional Development Credits (PDCs).

### **Licensing and Accreditation**

Foster Garvey advises health care clients in all aspects of licensing, certification, and accreditation. At the state level, we advise clients on compliance with the facility and professional licensing requirements and have extensive experience working directly with state regulators. Our lawyers also assist health care clients in complying with the Medicare and Medicaid conditions of participation and in meeting the standards of national accreditation organizations.

### **Medical Records and Privacy**

Our lawyers advise health care providers regarding compliance with the comprehensive federal privacy and security standards known as HIPAA. These standards apply to providers, health plans, and entities with which they do business and require sweeping changes in the way these entities handle health care information. We also assist health care providers in complying with state standards for the disclosure of health care information and the additional complexity of public disclosure requirements for public hospital districts.

### **Public Disclosure**

Foster Garvey has extensive experience advising and assisting public entities, including cities, counties, school districts, public utility districts, port districts, public hospital districts and housing authorities, concerning the Open Public Meetings Act (“OPMA”) and the Public Records Act (“PRA”). Our attorneys advise on proper use of executive session, requirements for meeting notices and minutes, and agency practices to help ensure OPMA compliance. Foster Garvey also routinely assists its clients in maintaining compliance with the PRA. We provide a full range of services in this area, including developing policies on disclosure, management, and retention of public records, advising on responses to public records requests, evaluating applicability of exemptions, and providing litigation counsel when needed.

### **Medical Staff**

We assist facilities of all sizes in addressing medical staff issues, and we know that a one-size-fits-all approach is not appropriate, as the needs of small or rural facilities vary greatly from larger, urban institutions. We regularly draft, review, and interpret medical staff bylaws, rules and regulations, policies and related documents. We also draft credentialing, peer review, and quality improvement standards and represent clients in the fair hearing process.

### **Public Entity Representation**

Our attorneys have deep experience in the legal requirements affecting the state of Washington's public hospital districts and we understand that these institutions face a challenging environment, marked by budget reductions and ever-changing government regulations. To help administrators, commissioners and staff members better understand this environment, Foster Garvey drafted portions of the Association of Washington Public Hospital Districts' legal manual. We have also long served as outside general counsel to the Association of Washington Public Hospital Districts and have served as special counsel to the Washington State Hospital Association. We are experienced in the law specific to operating a public

hospital district and we routinely advise clients in areas such as public meetings and public records, conflicts of interest, tax levies and voter approval as well as labor and employment matters.

**Reimbursement**

Foster Garvey has extensive experience in reimbursement and regulatory issues for the Medicare and Medicaid programs and private payers. Our Health Care attorneys are experienced in structuring deals to maximize reimbursement while complying with other areas of law such as fraud and abuse, licensing, and tax exemption.

**Transactions**

Our Health Care team has structured and reorganized many types of health care entities. We have been involved in numerous health care acquisitions, affiliations and joint ventures. Our attorneys partner with our health care clients to understand their objectives and structure, organize, negotiate and document complex transactions to achieve their business goals. We work collaboratively with other Foster Garvey attorneys to provide all of the necessary legal support for these transactions, including attorneys in our business, labor and employment, real estate, public finance, white collar criminal defense and tax practices.