

LSBA HEALTH LAW SECTION

Continuing Education Program

November 30, 2012 - Hilton St. Charles Hotel, New Orleans, LA

8:30 a.m.: Registration

9:00 a.m.: Opening remarks – Gilbert F. Ganucheau, Jr., Chair Health Law Section

9:15 a.m.: Keynote Address – Frank Opelka, M.D. - Executive Vice President of HealthCare and Medical Education Redesign for the Louisiana State University Systems Office
“LSU Health: Public hospital system impact from federal FMAP reduction”

10:15 a.m.: Adrienne Dresevic, Esq. - The Health Law Partners, Detroit, MI

“Navigating the Marketing Minefield: What Attorneys Advising Healthcare Clients Must Know”

The presentation will cover the legal issues surrounding marketing in the healthcare arena, with particular emphasis on federal fraud and abuse laws. The Federal Anti-Kickback Statute, Stark Law, and the Civil Monetary Penalty/beneficiary inducement law will be featured. The presentation will feature information necessary for attorneys to help clients navigate these laws, whether the client is a healthcare provider engaging in marketing activities, or a marketer working on behalf of a healthcare provider. The session will help guide participants through the various issues and assessments that must be made in order to provide guidance to healthcare clients engaging in marketing that targets potential patients or referral sources.

11:15 a.m.: William W. Horton, Esq. - Johnston Barton Proctor & Rose LLP, Birmingham, AL

(1 hr Ethics) **“Conspiracy Theories: Physician-Hospital Transactions and Professional Responsibility after Tuomey Healthcare System”**

The ongoing False Claims Act litigation against Tuomey Health Systems presents important issues about the government’s approach to litigating Stark issues. Like *U.S. v. Anderson* in the 1990s, the case provides a unique look at the thin line that may separate legal advice and claims of conspiracy. This presentation will examine what *Tuomey* has to tell us about the ethical and legal challenges facing lawyers and their clients in physician-hospital transactions.

12:15 p.m.: Lunch on premises – Chef John Besh’s Lüke Restaurant

1:30 p.m.: Donald Romano, Esq. - Foley & Lardner, Washington, DC

“Physician Compensation -- In the Crosshairs?”

Traditionally the Government has focused its enforcement efforts, with some exceptions, on institutional providers. Indeed, hospitals have long complained that physicians can cause some problems under Stark but do not suffer the results of a non-compliant arrangement. Recent enforcement actions, however, suggest that the OIG and DOJ are paying attention to physician groups that do not structure correctly their compensation within the group, or enter into non-FMV arrangements with hospitals. This session will cover the rules for compliant physician compensation arrangements with hospitals and in group practices and offer some practical tips for staying out of the Government's sights.

2:30 p.m.: Break

2:45 p.m.: Professionalism – Professor Dane S. Ciolino, Loyola University School of Law
(1 hr Professionalism)

3:45 p.m.: Panel Discussion – William W. Horton, Adrienne Dresevic & Donald Romano
“Recent Developments in Healthcare Law”

LSBA HEALTH LAW SECTION

Continuing Education Program

November 30, 2012 - Hilton St. Charles Hotel, New Orleans, LA

FACULTY

FRANK G. OPELKA, MD FACS, Professor of Surgery

Frank Opelka, MD FACS is the Executive Vice President of HealthCare and Medical Education Redesign for the Louisiana State University Systems Office. The LSU Health Care System is a 10 hospital safety net health system providing care to the underinsured of Louisiana. He joined LSU in the spring of 2005. Dr. Opelka is the LSU Health Sciences Center's advocate for improving patients' health through quality improvement programs, the e-health record, LSU healthcare performance metrics, and e-prescription program.

Dr. Opelka is a physician executive and a recognized national leader in surgical quality, patient safety, public reporting, and care & delivery system redesign for the surgical patient. He serves as an associate medical director in Washington DC for the American College of Surgeons in quality related matters.

Dr. Opelka serves on numerous national alliances, initiatives and national committees for patient safety, quality improvement and in areas of health policy. Dr. Opelka serves within the National Quality Forum's National Priority Partnership and the Measures Application Partnership. He works closely with the Brookings Institute as a member of the Quality Alliance Steering Committee, and the National Committee for Quality Assurance, the Agency for Health Research and Quality. Dr. Opelka founded the American College of Surgeon's Surgical Quality Alliance which pulls together over 22 surgical specialties to improve surgical quality, optimize the surgical patients' voice and experience, provide efficient care, and increase access to care. Dr. Opelka is a national recognized and published expert in colon and rectal surgeon.

ADRIENNE DRESEVIC

Adrienne Dresevic, Esq. is a founding shareholder of The Health Law Partners, P.C. She graduated Magna Cum Laude from Wayne State University Law School. Ms. Dresevic practices in all areas of healthcare law and devotes a substantial portion of her practice to providing clients with counsel and analysis regarding compliance and Stark and fraud and abuse. Ms. Dresevic is a member of the American Health Lawyers Association, American Bar Association ("ABA"), State Bar of Michigan, and State Bar of New York. Ms. Dresevic is the Chair of the Publications Committee of the American Bar Association ("ABA") Health Law Section. She also is the Chair of the ABA Fraud and Abuse Toolkit. Ms. Dresevic has also served as the Chair of the ABA eSource publication. Ms. Dresevic has written extensively on subjects across the spectrum of health care law, including, co-authoring a monthly column in the Association for Medical Imaging Management's (AHRA) publication, *Link*, regarding up-to-date legal issues relevant to imaging providers and suppliers. Ms. Dresevic can be reached by phone at (248) 996-8510 or (212)734-0128, by email at adresevic@thehlp.com or by visiting the Health Law Partners website (www.thehlp.com).

WILLIAM W. HORTON

Bill Horton is a partner with Johnston Barton Proctor & Rose LLP, Birmingham, Alabama, where he represents physicians, institutional healthcare providers and other business enterprises in the areas of business transactions, securities and corporate finance law, regulatory compliance and corporate governance matters, including government and internal investigations. A nationally recognized speaker and author on healthcare, corporate and securities law and professional responsibility topics, Bill currently serves as Secretary of the American Bar Association Health Law Section, as Chair of the Business Law & Governance Practice Group of the American Health Lawyers Association, and as Editor-in Chief of *AHLA's Federal Healthcare Laws & Regulations*. He also serves as an adjunct professor at the University of Alabama School of Law. Bill is listed in *The Best Lawyers in America*[®] (Health Care Law, Corporate Governance Law, Corporate Compliance Law, Securities/Capital Markets Law and Securities Regulation) and in *Alabama Super Lawyers*[®].

DONALD H. ROMANO

Donald Romano is Of Counsel to Foley & Lardner in Washington, D.C. He brings more than twenty-five years of experience as a regulatory attorney. During his tenure at CMS, he was responsible for the development of the current Stark Law regulations and Provider Reimbursement Review Board (PRRB) appeals procedures regulations. In addition, he contributed to the development of other regulatory policies, such as the anti-mark-up payment limitation for diagnostic tests, and had primary responsibility for a number of Medicare payment policies, including transplant center certifications and decertifications, assignment, reassignment, and various statutory payment exclusions, among others.

Previously, Mr. Romano also served as a senior attorney in the U.S. Department of Health & Human Services (HHS) Office of the General Counsel, during which time he handled major reimbursement litigation, program integrity and program advice matters affecting the Medicare program.

PROFESSOR DANE S. CIOLINO

Dane S. Ciolino serves as the Alvin R. Christovich Distinguished Professor of Law at Loyola University New Orleans College of Law. His current scholarly and teaching interests at Loyola include Professional Responsibility, Trial Advocacy and Criminal Law. Professor Ciolino graduated *cum laude* from Rhodes College in 1985, and *magna cum laude* from Tulane Law School in 1988, where he was inducted into Order of the Coif and selected as Editor in Chief of the *Tulane Law Review*. After graduation, he clerked for the United States District Court, Eastern District of Louisiana, and practiced law at Cravath, Swaine & Moore LLP in New York City, and Stone Pigman Walther Wittmann LLC, in New Orleans. Since joining the faculty at Loyola, Professor Ciolino has served as reporter to the Louisiana State Bar Association Ethics 2000 Committee, as chairperson of a Louisiana Attorney Disciplinary Board Hearing Committee, and as a member of the following Louisiana State Bar Association committees: the Professionalism Committee, the Lawyer & Judicial Codes of Conduct Committee, and the Ethics Advisory Service Committee. His legal ethics weblog, [Louisiana Legal Ethics](http://www.lalegaethics.org), is located at www.lalegaethics.org.