



Matthew S. Arend

Partner
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Matt has significant experience in health care contracting, defending health care clients in medical negligence matters, federal False Claims Act qui tam defense and other litigation involving claims of health care program fraud and abuse. He focuses on handling business and fiduciary litigation matters at the trial court and appellate levels, with an emphasis on complex litigation and class action matters; the defense of health care providers and manufacturers; contract disputes; trade secret and non-compete agreements; and ERISA and other benefits matters.

In addition to his litigation experience, Matt also focuses his practice on all aspects of federal and state privacy and data security issues, including HIPAA compliance, breach analyses, cybersecurity, and state data breach laws. He also routinely advises clients on compliance with federal and state anti-kickback laws, Stark law, Sunshine Act, Medicare Secondary Payer laws, pharmaceutical marketing rules and other regulatory matters. Additionally, his thorough knowledge of the health care arena enables him to effectively counsel clients through audits and investigations, administrative hearings and appeals, and enforcement actions, as well as providing training and strategic planning counseling to minimize risks related to non-compliance.

Services

- Cybersecurity & Data Privacy
- Corporate & Transactional
- ERISA Litigation & Administrative Proceedings
- False Claims Act
- Health Care Industry

Education

- University of Notre Dame Law School (J.D., *cum laude*, 2005)
- University of Oklahoma (B.A., 2002)

Bar Admissions

- Ohio

Court Admissions

- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Southern District of Ohio

Affiliations/Memberships

- Xavier University, Cincinnati, Ohio, Health Law & Policy in the Master's Department of Health Services Administration, adjunct professor
- University of Cincinnati, Health Law & Policy in the Graduate Program in Health Services Administration at the College of Allied Health Sciences, adjunct professor
- Cincinnati Bar Association
- American Bar Association, Health Law Section
- Notre Dame Club of Greater Cincinnati, Board of Directors, past president
- Tri-State Education and Technology Foundation (Drake Planetarium), Board of Directors
- United Way Emerging Leader Society
- Bloomberg Law Health Care Practice Innovation Board, board member

Distinctions

- Ohio *Rising Stars*®

Experience

National Health Care Litigation Counsel for Large Multi-State Provider

Serve as national litigation counsel to a large, multi-state provider, overseeing litigation and serving as lead counsel nationwide. By taking consistent positions on discovery and other issues in every case, clients are better positioned to avoid litigation potholes and arrive at more favorable outcomes.

Representation of National Insurer/Third-Party Administrator in ERISA Litigation

Successful handling and resolution of short-term and long-term disability denial of benefits claims under ERISA. Representative cases:

- ***Storer v. Prudential Insurance Co. of America, et al.***
 - Early resolution of case after successful mediation.

- ***Wheeler v. Prudential Insurance Co. of America, et al.***
 - Obtained decision in favor of long-term disability benefits plan leading to resolution on appeal.

Defense of Academic Medical Center in False Claims Act Lawsuit

Representation of an academic medical center in a False Claims Act qui tam lawsuit alleging improper billing practices. The client was operating under a CIA at the time of the representation. The matter was resolved favorably for our client after extensive discovery, with no extension of the length of the CIA and no press release issued by the federal government.

False Claims Allegations Against Client Dismissed

Representation of an academic medical center in a False Claims Act lawsuit involving allegations that the hospital lacked documentation to support its cost reports for GME expenses. The government declined intervention and the FCA claims were ultimately dismissed with prejudice without any payment.

Conducts Internal Investigations Relating to Potential Health Care Fraud and Business Conduct for Clients

Conducts internal investigations relating to potential health care fraud and other business conduct for clients across the health care spectrum, including a large health insurer, national long-term care and other providers, hospitals, physician practices, ambulance providers, therapy services providers, community mental health providers, DME suppliers, and others.

Representation of Health Care Clients in Alleged HIPAA Violation Investigations

Representation of numerous health care clients in OCR investigations relating to alleged HIPAA violations. The vast majority of these investigations have resulted in OCR deciding either: 1) no breach or violation occurred or 2) to close its investigation after the client's response and documentation were provided.

Represents Clients with Security Breaches

Representation of clients over 100 security breaches, including clients in the health care, financial and other industries, including state data breach laws.

CBS Personnel Services LLC, et al. v. ARC Staffing, et al.

Counsel for plaintiffs alleging breach of employment agreements containing non-competition provisions, misappropriation of trade secrets and services in a staffing industry, and unfair competition. The case settled after CBS secured a preliminary injunction against the defendants.

Defense Contracting Company v. Veteran-Owned Defense Contracting Company

Had principal responsibility for defending a veteran-owned defense contracting company and its two principal owners against allegations that they improperly hired a former employee of a competitor and misappropriated the competitor's trade secrets in a "bet the company" case. Also prosecuted a counter-claim against the competitor for antitrust violations. The case settled favorably shortly before a scheduled three-week jury trial.

Publications

June 4, 2019

HHS Publishes New Fact Sheet on Business Associate Direct Liability

January 23, 2019

Google Fined \$57 Million in First Major Enforcement of GDPR Against a US-based Company

October 1, 2018

Three Boston Hospitals Pay Close to \$1 Million in HIPAA Settlements for Disclosing Personal Health Information to Film Crews

July 2, 2018

Attorney General Announces Ninth Annual Fraud Takedown Targeting Opioid Epidemic

June 29, 2018

California Enacts Sweeping Privacy Law

February 2, 2018

New OCR Checklist Outlines How Health Care Facilities Can Fight Cyber Extortion

July 14, 2017

Attorney General Announces Eighth Annual Fraud Takedown Targeting Opioid Epidemic

March 21, 2016

Sixth Circuit FCA Ruling on Speculative Damages May Have Broader Implications for Health Care Providers

February 5, 2016

Administrative Law Judge Upholds Rare \$239,800 HIPAA Civil Monetary Penalty Against Home Health Provider

April 1, 2015

Supreme Court Rules Medicaid Reimbursements Not Subject to Private Action by Providers

February 5, 2015

Anthem Cyber Attack: Another Warning to Health Care Industry

January 5, 2015

A Lesson to be Learned: Electronic Data Breaches Surge in 2014

October 9, 2014

CMS to Modernize Home Health Regulations

October 3, 2014

OIG Offers Greater Protections for Health Care Providers in New Proposed Rule

June 24, 2014

HHS Announces \$800,000 HIPAA Settlement in Medical Records “Dumping” Case

March 31, 2014

Government Releases New Tool to Assist with HIPAA Security Rule Risk Assessments

December 20, 2013

Is Your Photocopier HIPAA Compliant?

Health Lawyers Weekly

August 16, 2013

Health Plan Fined for HIPAA Breach Relating to Information Stored on Photocopiers

February 6, 2013

CMS Shines Light on Financial Relationships with Final Physician Payment Sunshine Act Rule

January 18, 2013

HIPAA Final Omnibus Rule Brings “Sweeping Change” to Health Care Industry