



Melodie Hengerer

Shareholder

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Melodie Hengerer represents health care providers and organ procurement organizations (OPOs) in navigating complex legal and regulatory challenges.

Melodie Hengerer represents a broad range of health care providers, organ procurement organizations (OPOs), tissue banks and other industry clients in navigating complex legal and regulatory challenges related to organ donation and transplantation. Ms. Hengerer's experience includes her work advising donor hospitals, transplant centers, and OPOs regarding regulatory and clinical compliance issues, government investigations, navigation of organ allocation and performance measurement standards, reimbursement, contract drafting and negotiation, litigation of claims, corporate governance, health equity in transplantation, and OPO mergers and acquisitions. She is an individual member of the Organ Procurement and Transplantation Network (OPTN).

Notably, Ms. Hengerer's diverse experience as a litigator also allows her to assist her clients in all aspects of litigation, in both the general and the organ transplant and donation contexts. She has also represented health care providers in agency investigations and represented clients in suits involving antitrust matters arising under the Sherman Act and Clayton Act. Her practice is informed by her background defending health care providers in medical malpractice and professional liability matters, and corporate and municipal clients in general and commercial litigation matters. Ms. Hengerer is highly skilled in all areas of litigation, including investigation and claims management, development of case strategy, motions practice, witness preparation and depositions, client and team management at all levels, settlement negotiation, mediation, arbitration, and trial.

Representative Matters

OPO Representation

- Represented two OPOs in an investigation by the Congressional House Oversight Subcommittee on Economic and Consumer Policy into allegations of poor performance, waste, and mismanagement in the organ donation and transplant industry.
- Represented an OPO in a Senate Finance Committee investigation into allegations regarding improper use of pancreata for research.
- Represented the surviving entity in the merger of two organ procurement organizations to form the largest OPO in the mid-Atlantic region.
- Obtained dismissal of a case, which was upheld on appeal, brought against an OPO accused of improperly packaging and transporting a kidney for transplant, resulting in a leading opinion on the scope of the good faith immunity afforded to OPOs under the Uniform Anatomical Gift Act.
- Represented an OPO as part of a team at University of Maryland's Unmanned Aircraft Systems (UAS) and the University of Maryland Transplant Center to ensure FAA compliance, appropriate insurance coverage, and comprehensive consents in a first-ever successful mission to transport an organ for transplant via drone.
- Counseled a health care organization in drafting a letter to the North Carolina Attorney General's Office regarding a prior advisory opinion. As a result of the letter, the office reversed its position and retracted the prior opinion.

Health Care Litigation

- Represented a health care system and Jesuit hospital regarding claims of transgender discrimination arising under the Affordable Care Act involving multiple issues of first impression.

- Represented a health care system in a case of first impression involving allegations of unlawful disclosure of mental health records pursuant to a patient's request for workers' compensation coverage.

General and Commercial Litigation

- Successfully represented a buyer corporation in federal litigation regarding securities fraud, breach of contract, and indemnity claims arising from a stock purchase agreement.



Professional Honors & Activities

- Member – Advisory Board, Carlos and Marguerite Mason Center for Organ Donation and Transplant Education and Policy in the Mercer University School of Medicine
- Member – Advisory Board, Association of Multicultural Affairs in Transplantation
- Member – Organ Procurement and Transplantation Network
- Member – Association of Multicultural Affairs in Transplantation
- Member – American Association of Tissue Banks
- Member – Board of Ethics, Baltimore City
- Member – Downtown Partnership of Baltimore Board of Directors
- Member – Ethics Committee, Infinite Legacy, Inc.
- Member – Ethics Committee, We Are Sharing Hope SC (SHSC)
- Member – American Health Law Association
- Member – American Bar Association
- Member – Maryland State Bar Association
 - Health Law Section
- Member – Bar Association of Baltimore City
 - Chair, Health Law Committee (2020 – 2021)
- Recipient – Leadership in Law Award by *The Daily Record* (2022)



Publications

- "The Joint Commission Establishes Certification to Reflect Hospitals' Dedication to Equitable Care" (June 2023)
- "Initiative to Modernize National Organ Transplant System" (March 2023)
- "Advancing Health Equity in Organ Transplantation," *MedPage Today* (September 2022)
- "HHS Seeks to "Address Gaps" in Section 1557 Rule with New Proposed Rulemaking" (August 2022)
- "Advancing Health Equity in Transplantation: New Waitlist Policies Require Race-Neutral Data" (August 2022)
- "CMS Considers Comprehensive Changes to Organ Donation and Transplantation System Through RFI," republished in *Healthcare Business Today* (December 2021)
- "CMS Organ Transplant Proposal Must Balance Reform, Access," *Law360* (October 2021)
- "CMS Continues to Consider Organ Acquisition Cost Rule Changes," *Payment Matters* (September 2021)
- "Employers and Health Care Providers Take Note: Recent Announcements Forecast Increased Government Enforcement of Discrimination Laws Regarding Gender Identity and Sexual Orientation," republished September 16, 2021, in *Westlaw* (August 2021)
- "Newly Proposed Rule Regarding Organ Acquisition Payment Policies," *Payment Matters* (May 2021)
- "Can't Stop Won't Stop — How Organ Donation and Transplant Partners Can Maintain Unprecedented Momentum," *Westlaw* (September 2020)
- "DOJ Finds Certain Hospital Transplant Policies Violate the ADA – Transplant Centers Should Take Note," *Health Law Alert* (August 2020)
- "New HHS Guidance on Solid Organ Transplantation: Reducing Risk and Increasing Availability " (July 2020)

- "Hospitals Should Brace For Gov't Focus On Organ Donations," *Law360* (June 2020)
- "Organ Transplant Rates Remain Low: What Hospitals Need to Know to About Their Obligation to Help" (June 8, 2020)
- "Smokers' Chances of a Fair Fight Against the Tobacco Companies Go Up in Flames: A Study of *Phillip Morris v. Angeletti* and Its Effect on the Viability of Class Action Lawsuits in Maryland Tobacco Litigation," 31 *University of Baltimore Law Review* 103 (2001)



Speaking Engagements

- "A Legal Perspective on the Changing Healthcare Landscape," MTF Biologics Leadership Summit (May 2024)
- "CMS Updates: Oversight and Performance of Organ Procurement Organizations," AMAT 31st Annual Conference (October 2023)
- "Fundamentals of First Person Authorization," AMAT 31st Annual Conference (October 2023)
- Presenter – "The Legal Problems with the Dead Donor Rule," 29th Annual Thomas A. Pitts Memorial Lectureship in Medical Ethics (April 2023)
- Presenter – "Understanding CMS's 2020 Proposed Rule Regarding OPO Outcome Measure Requirements," We Are Sharing Hope SC Leadership Forum (February 2020)
- Presenter – "Mitigating Liability Through Defensive Documentation," MedStar Georgetown University Hospital Annual Meeting and Professional Development Conferences (November 2018 and March 2019)



Webinars

- Health Care, Gender and Religion, Oh My! (October 2020)



Education

- University of Baltimore, School of Law, J.D. 2002, magna cum laude
- University of North Carolina, B.A. in Biology and Communication Studies, 1994



Admissions

- Maryland
- U.S. District Court for the District of Columbia
- U.S. District Court for the District of Maryland