

OUR PRACTICE

Health Information Technology

Information technology is a fundamental underpinning to the provision of health care. Health Information Technology (HIT) issues touch every aspect of the health care industry.

Information technology enables the health care system to communicate, analyze, and deliver care, from electronic health records to telemedicine, from clinical decision systems to "big data" health care analytics and mobile health to consumer wearables. Baker Donelson's lawyers have the knowledge and experience to address the full spectrum of legal needs faced by organizations struggling with the issues they face on a daily basis to ensure the regulatory, contractual, and business strategy is analyzed, understood, and managed.

In many cases, our clients are leading-edge innovators or first adopters. We provide advice and representation across a range of known and emerging matters, drawing on deep understanding of law and policy to provide context and clear counsel for moving businesses forward.

Clients. Our clients include health care providers, HIT companies, health financing companies, digital health applications, companies developing artificial intelligence, pharmaceutical companies, medical device companies, and medical software developers and vendors.

Regulatory compliance. We advise health care technology clients on topics relating to telemedicine issues, Medicare/Medicaid reimbursement, privacy and information security (including but not limited to Health Insurance Portability and Accountability Act (HIPAA), California Consumer Privacy Act (CCPA), and General Data Protection Regulation (GDPR)), interoperability and information blocking, fraud and abuse, Stark, compliance audits, Merit-based Incentive Payment System (MIPS) requirements, defending government investigations, and interpreting the ever-changing regulations that affect information technologies in the health care industry.

Transactions. Our team represents HIT companies (that develop and operate software solutions, electronic medical records (EMRs), digital health assets, and apps) in significant sales, affiliations, and merger transactions to national IT companies, private equity investors, and platforms. Our extensive knowledge of the health care and life sciences industries, and more specifically the niche of software and technology aspects and their unique set of issues, has helped our clients navigate the complexities of such transactions.

We also advise clients on all types of business transactions involving the purchase and sale of health care technology products and services, including related intellectual property issues, privacy and security issues, and other risk factors for diligence and negotiation. We routinely advise on licensing agreements for content, software, and other rights-protected intellectual property. We advise on a full range of commercial and contractual matters, including strategic alliance agreements, joint ventures, data center and web hosting agreements, managed service provider agreements and business associate agreements, and financing agreements.

Our attorneys strategize with clients to structure deals to meet the client's desired goals in the most tax-efficient manner. We also have experienced counsel to help with the myriad of issues posed, including antitrust, Committee on Foreign Investment in the United States (CFIUS), cross-border, tax, litigation, finance, real estate, employee benefits, securities, and other regulatory concerns.

mHealth. mHealth issues arise from the evolving landscape of our mobile society and the expectation that information is available at our fingertips. mHealth continues to have a profound and wide-ranging impact, with new technology developments triggering not only existing and emerging health-care-specific regulations, but a myriad of developing laws and regulations relating to the business use of technology. We offer comprehensive and proactive advice and solutions to these often complex mHealth issues.

Interoperability and Information Blocking. Federal law requires all members of the health care ecosystem to ensure that health information is available and usable by all actors. As health care systems and their partners move more and more to care management and care coordination among various providers along the continuum of care, the ability of patient information to be shared in real time becomes crucial. At Baker Donelson, the HIT team is familiar with these challenges and the mechanics of achieving interoperability. We understand the enormous potential of blockchain technology for the implementation of interoperability and have experience with the unique challenges that are developing with blockchain technologies and negotiations. Our attorneys guide clients through the issues associated with information blocking and the potential fines for violation of the law.

Information privacy and security management. We counsel HIT clients on a wide array of privacy, data security, and cybersecurity issues, including regulatory compliance with applicable federal and state laws. Our team brings deep experience in these areas and includes numerous attorneys who are Certified Information Privacy Professionals (CIPP) and Artificial Intelligence Governance Professionals (AIGP).

Public policy. We provide strategic counsel as well as day-to-day policy representation, working to protect and advance client interests throughout the course of federal policy-making. We work to guide the actions of clients both in anticipation of and as a result of expected HIT policies.