

# OUR PRACTICE

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## Health Care Transactions

**Amid mounting financial pressures and the rise of value-based reimbursement, savvy health care players are leveraging mergers, acquisitions, and strategic partnerships to achieve their objectives. With Baker Donelson's formidable size, experience, and track record, clients gain a decisive edge in maneuvering through the intricate landscape of health care transactions. Our dedicated team not only stays abreast of evolving health laws but strategically employs this knowledge to guide clients through the complexities of the industry. From inception to exit, few firms rival our depth of experience in shepherding health care entities through every phase of their journey.**

Baker Donelson is a powerhouse in health care transactions, serving a diverse range of clients across the nation including for-profit, non-profit, religious, and government-sponsored health systems and hospitals, as well as other provider types such as independent physician practices, ambulatory surgical centers, and clinical laboratories. We also represent financial institutions, brokers, investment bankers, equity investors, mezzanine lenders, and management groups. We have served as counsel to many of the national for-profit U.S. hospital chains, as well as many of the leading public and non-profit health systems in this country. For clients with deep experience in federal and state health care regulations, we offer unparalleled insight into the intricate implications of structuring investments and acquisitions. We help clients ranging from physician group practices to larger health and hospital systems thrive amidst changes in health care delivery and financing. Whether it's advising private equity funds or representing health care companies seeking capital, our team excels in all phases of transactional activities. Clients value our deep understanding of their business goals and our commitment to creating value at every stage of the deal. We are experienced in advising on, and providing insight into fund formation, capital raises, private equity funds' planning and structuring strategies, negotiation of investments in portfolio companies, regulatory and compliance matters, mergers, acquisitions, divestitures, spin-offs, joint ventures, strategic alliances and partnerships, reorganizations, restructurings, and due diligence.

Our health care transactions lawyers and regulatory advisors work closely together to resolve issues and keep deals on track. Our deep bench of transactional experience allows us to understand the business needs of all types of health care organizations and design creative solutions to achieve these business goals. Our broad health care regulatory experience enables us to identify critical issues during the diligence process, helping our clients evaluate risk and implement common-sense solutions when problems arise. We possess in-depth knowledge of federal and state laws and regulations impacting health care providers, enabling us to be a true "one-stop shop" for our clients. Our comprehensive services include regulatory analysis, business counsel, and transactional experience.

We focus on advising entrepreneurial clients who seek to navigate the latest market trends and explore strategic opportunities for medical groups, helping them enhance their enterprise value and optimize physician compensation. For those dealing with financial distress, we oversee all aspects of lender representation in health care defaults, which includes documenting loan modification and restructuring, addressing regulatory and survey issues, addressing inter-creditor issues with working capital lenders, dealing with reimbursement problems, and resolving various title issues with real estate. We routinely litigate bankruptcy, receivership, foreclosure, and lender liability in actions involving health care facilities across the country.

We frequently counsel buyers of distressed health care entities, guiding them through various avenues like note purchases, 363 bankruptcy sales, confirmed Chapter 11 plans, and orchestrated foreclosure sales.

We have extensive experience advising clients on:

### **Transactions**

- Stock transactions
- Acquisitions
- Recapitalizations
- Affiliations
- Mergers
- Joint ventures
- Restructuring transactions
- Workout transactions for financially distressed or bankrupt providers
- Private equity transactions
- Debt and equity financing arrangements
- Establishment and structure of multilocation, multispecialty group practices and independent practice associations

### **Regulatory**

- Anti-Kickback Statute, Stark Law, and False Claims Act
- Data governance and HIPAA compliance Fraud, waste, and abuse policies
- Fraud investigations and audits by the Department of Justice, the Department of Health and Human Services' Office of Inspector General, and other federal and state governmental authorities
- Internal reviews and investigations
- Managed care/payer arrangements
- Corporate practice of medicine, fee-splitting, and other state professional practice rules, regulations, and ethical standards
- EMTALA compliance
- Health care facility licensure
- Antitrust
- Reimbursement
- Legal, financial, religious, cultural, and political compliance
- Certificates of need
- Data use and sharing strategies and compliance
- Information privacy and security
- Tax issues
- Due diligence
- Risk mitigation strategies
- Compliance training, counseling, and auditing
- Provider enrollment
- Clinical integration transactions, including network development, gainsharing, accountable care organizations (ACOs), service agreements, and equipment leasing compliance
- Corporate integrity agreements
- Exclusive provider agreements
- Physician agreements

### **Management/Governance**

- Corporate governance
- Management agreements
- Independent contractor professional service agreements
- Employment and shareholder agreements
- Leases

- Commercial contracts



## Representative Matters

*Results may vary depending on your particular facts and legal circumstances.*

- Represented a regional non-profit health system in structuring three whole-hospital joint ventures to build and operate new hospitals, including private placement syndications to contemplated physician medical staff members, with transaction values and capital investments of approximately \$100 million each.
- Represented an independent community hospital in acquiring numerous primary care and specialist physician practices, applying a Professional Services Agreement (PSA) model approach, resulting in provider-based physician clinic status. Structured fair market value wRVU-based compensation models, including physicians in medical oncology, cardiology, nephrology, orthopedic surgery, and gynecology.
- Represented hospitals in connection with complex transactions involving compliance with Medicare regulations, including provider-based status, hospital-within-hospital, and other payment and conditions of participation rules.
- Represented a multistate hospital company in connection with a \$25 million revolving credit facility.
- Represented a billion-dollar non-profit health system in securing the first Certificate of Public Advantage (COPA) ever issued in the state of Tennessee and the first Cooperative Agreement ever issued in the commonwealth of Virginia.
- Represented a \$2 billion non-profit health system in the buy-out of a 50-year hospital lease, the purchase of real estate, and a commitment to build a new \$250 million hospital campus.
- Represented a \$2 billion health system in its acquisition of more than 500 physicians.
- Represented a for-profit hospital company in the sale of a 325-bed acute care hospital to a non-profit health system.
- Represented a regional non-profit health system in the sale of a 500-bed acute care hospital to a for-profit hospital company.
- Represented a large non-profit health system through a strategic options process and selection of a strategic partner.
- Represented an academic medical center in its acquisition of numerous physician practices.
- Represented an independent community hospital in negotiating a strategic affiliation agreement to join a clinically integrated network.
- Represented a regional non-profit health system in the purchase of the largest physician-owned medical group in the state of Arkansas.
- Represented a for-profit behavioral health company in the sale of a private inpatient acute behavioral facility dedicated to the treatment of behavioral and chemical dependency issues.
- Served as lead and/or co-regulatory compliance counsel in corporate transactions valued at up to \$1 billion.
- Assisted a health care system in obtaining merger approvals (HSR) for several acquisitions throughout the southeastern U.S.
- Represented a for-profit company in purchasing a 140-bed acute care hospital from a local governmental instrumentality.
- Represented a secured lender holding \$47.9 million in bonds secured by a hospital in Alabama. Implemented restructuring of bond obligations, including extensive negotiations with health care authorities and creditors to preserve the lender's position and the financial viability of the hospital.
- Represented a pathology services group in a recapitalization transaction with Pritzker Group Private Capital.
- Represented management of a behavioral health company in a \$275 million recapitalization.
- Assisted an urgent care company in a \$40 million debt/equity round.

- Provided counsel to a company in the behavioral health care industry in connection with a \$55 million venture capital investment.
- Represented management in a \$260 million recapitalization of a behavioral health company by a private equity fund.
- Represented management in a \$40 million recapitalization of a multifacility behavioral health company with a private equity fund.
- Managed a corporate compliance effectiveness review for a health care client that was majority-owned by a private equity firm.
- Handled multiple internal compliance investigations for health care companies owned by private equity firms.
- Led a team assisting one of the largest creditors in the Adeptus Health bankruptcy in Dallas, Texas. As of the petition date, Adeptus operated 99 free-standing emergency rooms in three states, plus four full-service hospitals. Our client's investment risk was approximately \$500 million. Our team negotiated the full assumption of all of the leases with Adeptus' plan sponsor, who paid our client's cure amount in full.
- Counsel for a debtor in the Chapter 11 case for Saint Mary Hospital (which was founded in 1864 and operated by the Franciscan Health System in Philadelphia); the hospital property was sold, cleared of asbestos, subdivided, and converted into low-income apartments for seniors and an adult day health care center.
- Counsel for a lender on a \$11.5 million loan secured by a skilled nursing home and rehabilitation center located in St. Petersburg, Florida, where CMS terminated the operator's provider agreement, and the operator sought to keep it in place by filing for bankruptcy. Ensured lender's ongoing payments under a cash collateral order and ultimate payoff of the loan as debtor. Litigated appeals to the 11th Circuit and had the certification denied at the Supreme Court in its effort to confer jurisdiction on the bankruptcy court and remain open.
- Represented a secured lender in connection with \$19 million in aggregate credit facilities secured by real estate, accounts receivable, and a "rental pool" of durable medical equipment. Guided the client from initial legal review through nine forbearance agreements and a CRO to the initial stages of enforcement of rights and remedies. Issues included a significant False Claims Act qui tam action against the borrower, post-default execution of a business associate agreement to allow the review of accounts receivable records, a requirement for a court order, directing a Medicare Administrative Contractor to issue CMS payments directly to a secured lender, and government offset rights.
- Represented the Official Unsecured Creditors Committee in the bankruptcy of one of the largest pediatric dental chains in the United States. Our efforts yielded a nearly 100 percent recovery for claimants holding general, unsecured claims as well as a \$45 million settlement on behalf of minors treated at many of the clinics prior to the bankruptcy filing. The latter recovery represents the largest mass tort settlement in the history of the United States Bankruptcy Court for the Middle District of Tennessee.
- Represented the largest landlord in the bankruptcy filing of the United States' largest free-standing emergency room operator. Our client owned 50 properties valued at more than \$500 million. We negotiated and secured full assumption of facility matter leases and related agreements, and payment of all cure amounts by the reorganized debtor.
- Represented a digital health engagement company in a multimillion-dollar asset sale to one of the nation's largest health care systems.
- Advised a nurse practitioner practice in a \$26.5 million transaction to sell off all of its equity to an international private equity firm.
- Advised the seller in a complex \$110 million disposition of its nursing home business to three separate buyers.

- Assisted a specialty pharmacy in the sale of the company to an investment firm in a deal valued at \$61 million. Baker Donelson was able to leverage its experience in pharmacy operations and related licensure challenges to counsel the client in structuring the transaction as an equity purchase.
- Closed a \$7.8 million acquisition loan on behalf of a community bank to finance a skilled nursing facility in Massachusetts. Negotiated an intercreditor agreement with a mezzanine lender as part of the transaction.
- Closed multiple loans to an operator of short-term psychiatric hospitals on behalf of a health care real estate company.
- Represented a city public health authority in its \$11 million acquisition of a public hospital.
- Represented a health care company in its acquisition of an Idaho-based home health services company.
- Represented a non-profit governmental health system in the formation of a hospital joint venture to acquire a 50 percent membership interest in a local for-profit, 153-bed acute care hospital and Level III trauma center in exchange for a cash purchase price of \$15 million.
- Represented an investor in the acquisition and financing HUD-insured financing of a \$7 million assisted living and memory care facility in Connecticut.
- Led the health care regulatory and compliance due diligence efforts for a national health care system's \$1.1 billion acquisition of an ambulatory surgical center (ASC) development company and over 80 individual ASCs.
- Represented a behavioral health provider operating 23 psychiatric hospitals and outpatient programs along the Gulf Coast, as seller's counsel in its \$310 million sale to a buyer with financing provided by a private equity firm.
- Represented a joint venture to acquire a large multispecialty physician group; a 35-physician practice with seven clinic locations. The \$4 million transaction involved the purchase of stock of the medical practice and the acquisition of the assets of its independent, unrelated management services organization.
- Represented a non-profit foundation in the \$40 million sale of its interest in a large hospital to an academic medical center.
- Represented a dermatology practice offering best-in-class surgical, medical, and cosmetic dermatology in connection with its acquisition by one of the nation's largest providers of dermatology services. Terms of the transaction were not publicly disclosed.
- Represented the seller in the purchase of two addiction and recovery centers by a health services company.
- Represented a large clinical laboratory services company in a joint venture with a non-profit health system to combine outreach lab services in the state.
- Represented a regional health care system in a \$4 million joint venture with a radiology group to form a new Independent Diagnostic Testing Facility (IDTF). Assisted with all aspects of the joint venture, including governance, leases, obtaining a certificate of need, and drafting agreements.
- Represented a Florida-based physician cardiology group in an arrangement with a private equity-backed management company involving a clinical asset sale with a rollover equity grant.
- Represented a Texas-based physician cardiology group in an arrangement with a private equity-backed management company involving a clinical asset sale with a rollover equity grant.