



Healthcare

Healthcare: A Kutak Rock Signature Practice

Kutak Rock is committed to partnering with healthcare clients to address the full width of business, administrative, and regulatory legal matters affecting the highly regulated industry. With a full-scale, national practice, our Healthcare Group serves as trusted counsel to dozens of healthcare organizations and providers of all types and sizes in numerous areas of practice. Healthcare providers function in a highly competitive market where payers continue to ratchet down reimbursement and increase pressure on providers to do more for less. We are sensitive to the financial constraints the industry faces and offer a value proposition grounded in efficiency.

Intelligent and responsive, our Healthcare Group possesses extensive knowledge of the regulatory environment and regularly assists clients with the Patient Protection and Affordable Care Act, Anti-Kickback Statute, Stark Law, HIPAA and other related state and federal regulatory statutes. Kutak Rock is well-versed in the rules and agreements that govern doing business, and as they vary by state.

Members of our team have worked in-house at some of the largest healthcare, bio-pharma and medical device organizations, bringing even deeper experience and insight of the regulatory landscape to our clients.

Our healthcare clients include:

- National and regional hospital systems
- Senior living developers and owners
- Urban and rural individual hospitals
- Physician practice groups, ambulatory surgical centers, medical imaging and dialysis providers
- Long-term care facilities (national, local, non profit and for profit)
- Home health agencies (national, local, non profit and for profit)
- Franchise medical and dental businesses
- Managed care organizations
- Physical, occupational and speech therapy providers (national, local, non profit and for profit)
- Individual medical professionals
- Pharmacies (national, local, independent)

The Business of Healthcare: Select Practices

Healthcare Regulatory and Operations

Despite a healthcare provider's best intentions and efforts, noncompliance with state or federal regulations does occur. Kutak Rock is familiar with the matters that are regular sources of risk, as well as first-impression matters that require novel approaches. We regularly advise multi-provider health systems, hospitals, physician practice entities, ambulatory surgery centers, home health agencies, nursing homes, pharmacies and other providers in the design, implementation and operation of compliance programs, including those voluntarily created by the provider and those mandated by federal regulators.

Kutak Rock views operations and compliance as a continuum that begins from the ground up with structuring an organization, arrangement, or transaction, and continues with regular and vigilant internal monitoring. The continuum then extends to addressing any compliance matters with appropriate authorities (if necessary) and assisting clients with implementing corrective action plans that not only resolve government inquiries but also put in place real changes that ensure compliance going forward.

Operational and Transactional Structuring

- Assessing and structuring business transactions to minimize the risk of violating state and federal fraud and abuse laws, including those with referral sources
- Assisting in the negotiation, preparation, and/or maintenance of all contracts and leases with referral sources that are needed to assure compliance with healthcare fraud and abuse and related laws

Day-to-Day Operations and Corporate Compliance

- Educating clients and their personnel on practical compliance and legal risks
- Establishing, monitoring and enforcing effective corporate compliance programs
- Developing processes that will keep existing compliance policies current and effective
- Complying with EMTALA, licensure/certification, HIPAA, HITECH and Sarbanes-Oxley requirements, among other laws

Internal Investigations and Self-Disclosures

- Conducting thorough, discreet and efficient self-audits, gap analysis and internal investigations
- Implementing internal reporting and self-disclosure processes

Noncompliance Responses and Corrective Action

- Handling government investigations and resolving potential fraud and abuse investigations and/or litigation
- Responding to survey, accreditation, and other inspection issues
- Negotiating corporate integrity agreements and providing compliance training
- Resolving Medicare and Medicaid Medicare audits and reimbursement appeals
- Litigation arising under the False Claims Act
- Alleged violations of various healthcare fraud and abuse laws such as the Stark Law and the Anti-Kickback Statute

Professional Licensing

Kutak Rock healthcare attorneys have extensive experience representing healthcare providers, suppliers, and facilities, including individual healthcare professionals; long-term care, home health, and hospice providers; ambulatory surgery centers; pharmacies; dialysis facilities and suppliers; durable medical equipment suppliers; diagnostic imaging suppliers and IDTFs; and behavioral health providers before state healthcare regulatory, professional licensing and enforcement agencies to achieve the following goals:

- State licensure, through providing advice regarding licensure requirements, preparation and submission of licensure documents
- Certificate of need determinations
- Obtaining accreditation
- Resolution of ownership and disciplinary actions and sanctions

Healthcare Finance

A pioneer of healthcare finance, Kutak Rock leads the industry with innovative and creative financing structures for hospitals, long-term care facilities and healthcare joint venture/cooperative structures. We have specialized teams of attorneys focusing on each type of healthcare financing for stand-alone hospitals, large regional and national systems, critical care facilities, and joint ventures and partnerships, and our attorneys have the ability to draw upon the knowledge of others in the firm who focus on taxation, swaps and other derivative products, security interests and governmental regulations. This collaboration greatly enhances our ability to thoroughly represent our clients in multiple aspects of transactions.

Our attorneys' vast tax expertise and extensive experience with both taxable and tax-exempt financings, together with our affiliated rebate analysis firm, permit us to advise clients about the appropriate financing structures for their assets, and, if requested, to guide clients through any ongoing compliance requirements.

Healthcare Contracting

Kutak Rock's healthcare attorneys have deep experience with the negotiation and preparation of contracts in the healthcare setting. Healthcare providers routinely contract with one another and with non-healthcare provider vendors, and Kutak Rock's healthcare attorneys regularly represent clients with contracting tasks such as:

- Preparation of physician recruitment arrangements in compliance with federal and state regulatory requirements
- Development of physician and non-physician provider compensation plans for employed physicians and preparation of employment agreement for healthcare professionals
- Negotiation and preparation of agreements for:
 - Professional services
 - Co-management services
 - Call coverage services
 - Management services
- Administrative services agreements involving quasi-professional services
- Enforcement of all types of healthcare contracts, including buy-in and buy-out issues and non-competition and non-solicitation provisions

Alternate Delivery Models

Kutak Rock represents both for-profit and not-for-profit managed care companies and integrated health delivery systems across the country assisting in their efforts to navigate the healthcare industry's complex business, legal and reimbursement regulatory needs.

Kutak Rock has developed proprietary "Virtual Private Practice" compensation models, in which physicians sell their practice's assets to institutional purchasers and are compensated based on productivity. This arrangement allows physicians to retain ownership and a measure of autonomy over their practices, billing and collections while permitting institutional purchasers to align the physicians' compensation incentives with the institutions' goals, and also to provide resources the physicians themselves could not afford. The IRS has favorably viewed our Virtual Private Practice models in a number of its determination letters.

Kutak Rock has created "Physician Enterprise" structures in which physicians sell their practice assets and contract as Management Service Organizations. We also assist physician practices and hospital purchasers in more traditional "Clinic Model" and "Hospital-Based Group Practice" arrangements.

Kutak Rock's national healthcare lawyers are an established part of the client's team to assist the healthcare client to restructure a financially stagnant practice operation, and to either partner or redesign their delivery of services more efficiently to assure compliance with payor requirements. This includes advising on organizational structures where there are areas of legal risk such as the widely varying state regulation of the corporate practice of medicine. We have extensive experience in structuring purchases of physician practices in compliance with the federal Anti-Kickback Statute and the Stark Law.

Business and Corporate

The firm has a broad and dynamic Business and Corporate practice with more than 80 attorneys who, in conjunction with our Healthcare Group, are involved in all aspects of corporate finance, mergers and acquisitions, securities regulation and compliance matters, transactional tax and corporate governance and compliance. While we have a prominent national practice, we also focus on the regional issues that matter most to our clients.

Kutak Rock has served as counsel to many of the healthcare organizations in Arkansas and across the nation on a wide variety of engagements. Our work includes the structuring, formation, restructuring, operation, merger, acquisition and sale of hospitals, physician practices and clinics, clinical laboratories, ambulatory surgical centers, accountable care organizations and hospital joint ventures.

Mergers and Acquisitions

Our national Mergers & Acquisitions group, consisting of more than 45 attorneys, has built a solid reputation as a leader in Middle-Market M&A. We represent strategic buyers and sellers, private equity groups and their portfolio companies, entrepreneurs, family offices, founder- and family-owned businesses, boards of directors and their special committees and financial advisors. Our team is especially experienced in the healthcare, financial services, telecommunications, retail, technology and real estate industries.

Franchise Law

Our national franchise and distribution group has advised hundreds of local and national clients in franchise, licensing and distribution matters including:

- Structuring franchise, distribution and licensing programs
- Advising clients on whether a business arrangement constitutes a franchise, dealership or other agency relationship which results in the application of special laws, both domestically and internationally
- Preparing Franchise Disclosure Documents and state registrations
- Counseling clients on registration, renewals, sales compliance, relationship laws and business opportunity laws
- Advising clients on franchise terminations, transfers and renewals
- Representing franchise companies (both franchisors and franchisees) in litigation, arbitration, mediation and dispute resolution
- Assisting in establishing and maintaining franchise compliance programs
- Protecting brands, including trademark and service mark registration and enforcement
- Protecting and enforcing other Intellectual Property, including copyright, patent, trade secrets, domain names and trade dress
- Enforcing non-compete provisions in franchise and distribution agreements
- Counseling clients on employment, compensation and employee benefits issues and litigation
- Identifying and minimizing state and local tax issues
- Acquiring and leasing real estate
- Advising clients on corporate and real estate financing and capital formation
- Selecting and structuring entities
- Leading mergers and acquisitions

Real Estate Acquisitions and Leasing

Our real estate attorneys have handled thousands of acquisitions and dispositions of real estate assets, including real estate loan assets, across the nation. We are tough, practical negotiators and we structure transactions to reduce risk, minimize transaction costs and defer avoidable taxes. A particular strength of our team is our responsive and proactive advice, ensuring clients are not left waiting for critical documents or legal opinions, especially on complicated multi-state transactions.

We have negotiated leases on behalf of landlords and tenants in connection with offices, retail storefronts, shopping centers, hotels, restaurants, warehouses, distribution centers, manufacturing facilities, medical office buildings, agricultural facilities, telecommunications facilities, billboards and timeshares. This representation often entails structuring, negotiating and drafting a wide variety of complex and specialized leasing structures including ground leases, build-to-suit leases, lease-purchase agreements and subleases. We also have served as lead counsel in the structuring, restructuring and modification of several large-scale, national leasing projects, including sale-leaseback transactions.

Employment Advice, Counseling and Risk Management

We regularly provide advice and counsel to employers to ensure compliance with local, state and federal employment laws. The firm also has experience providing legal counsel on matters arising under the NLRA and WARN, and we regularly provide employment advice relevant to mergers and acquisitions. When employee complaints arise, whether internally or externally, we investigate and advise proactively to minimize the risks of further claims and litigation. Clients also count on our employment attorneys for representation at hearings involving administrative agencies, such as the EEOC, as well as workers' compensation and unemployment matters.

ABOUT

National reach.
Local market presence.

The experience you need,
and the bench strength
you want.

An enduring
value proposition.

Diversity.
Inclusiveness.
Engagement.

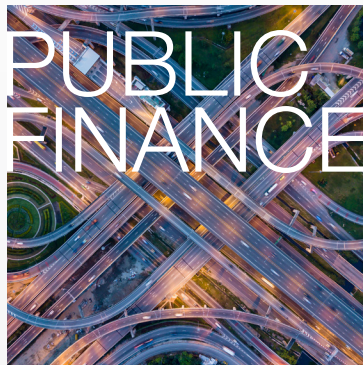
For more than 50 years, Kutak Rock has served business and governmental clients across the United States. Our national footprint positions us wherever legal needs arise, and our local market presence helps us understand the business and civic communities we share.

With over 500 attorneys serving clients in the full range of transactional and litigation services, Kutak Rock is well-equipped to assist with virtually any legal matter or project, regardless of scope or scale. We represent clients in transactions of all types in venues across the country, and our litigators appear in state, federal and appellate courts and before administrative tribunals. Our cumulative experience, paired with a focus on innovation and creativity, inspires client confidence.

Kutak Rock is differentiated by a fundamental commitment to delivering high-quality legal service at a fair price. Committed to being intelligent about your business, mindful of your ever-evolving business objectives and focused on meeting the unique challenges and opportunities you face, our goal is to deliver true value and earn your loyalty through high-quality client experiences, one matter at a time.

Kutak Rock opened its doors in 1965 with a stated commitment to a diverse and equal opportunity work environment and to improving diversity in the legal profession. This early commitment continues today in firmwide structures such as the firm's national inclusiveness and diversity committee, successive three-year inclusiveness and diversity strategic plans and annual tactics, and multiple inclusiveness engagement groups designed to encourage every person at Kutak Rock to take responsibility for enhancing the firm's inclusive and diverse working environment. As a result, 47% of the firm's attorneys and 44% of the firm's partners are women or members of other diverse groups, and the firm enjoys a higher-than-average retention rate for women and minority attorneys.

SERVICES



AREAS OF FOCUS

Agribusiness
Banking
Bankruptcy, Restructuring and Creditors' Rights
Business, Corporate and Securities
Construction
Employee Benefits and Executive Compensation
Employment Law
Energy
Environment and Natural Resources
Finance
Government Relations
Government Services
Healthcare
Housing
Institutional Investments
Insurance
Intellectual Property
Litigation
P3, Privatization and Infrastructure
Privacy and Data Security
Public Finance
Real Estate
Real Estate Capital Markets (REITs)
Tax
Tax Credits
Technology

WHERE

KUTAKROCK



Atlanta, GA
Chicago, IL
Denver, CO
Fayetteville, AR
Irvine, CA
Kansas City, MO

Little Rock, AR
Los Angeles, CA
Minneapolis, MN
Omaha, NE
Philadelphia, PA
Richmond, VA

Rogers, AR
Scottsdale, AZ
Spokane, WA
Springfield, MO
Washington, D.C.
Wichita, KS

540+
Attorneys

18
U.S. Offices in
14 States +
Washington, D.C.

Attorneys licensed to
practice in
41 States +
Washington, D.C.

180+
Litigators across
18 Kutak Rock Offices