



## Gabriel T. Scott

### Partner

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## OVERVIEW

Gabriel Scott is a partner in the firm's Research Triangle Park office and focuses his practice exclusively on health care regulatory and transactional matters. Gabe has extensive experience in government and health care operations—he previously served at the Centers for Medicare & Medicaid Services (CMS) and also spent several years in operational roles at one of the nation's largest home health care providers. This unique combination of prior work experience in both government and health care delivery informs his assistance to clients, which is rooted in identifying practical legal solutions to complex regulatory matters in a manner that gives attention to both business objectives and compliance.

Gabe maintains a national practice that focuses on resolving compliance, reimbursement, licensure, and Medicare/Medicaid enrollment issues for health care providers and non-provider entities involved in the health care industry. He has experience assisting institutional acute and post-acute providers (such as health systems, hospitals, home health agencies, hospices, and skilled nursing facilities), ancillary providers (such as diagnostic testing facilities, durable medical equipment suppliers, laboratories, pharmacies, and sleep centers), physician groups, therapy practices, telemedicine providers, and companies furnishing specialty health care services (such as services associated with decentralized clinical trials).

This includes:

- Utilizing a “turnkey” approach in the preparation of thousands of health care regulatory filings, to increase the speed and efficiency of filing submissions.
- Representing providers in licensure and enrollment compliance matters before federal and state regulators and state professional boards, including CMS, state laboratory agencies, and state pharmacy boards.
- Advising providers on technical reimbursement matters, including incident to billing, anti-markup rule, 70/30 laboratory rule, value-based payment structures, and other complex payment issues.
- Counseling clients on complying with the increasingly complicated regulatory landscape of federal and state disclosure requirements related to certain health care transactions.

- Structuring business transactions and contractual arrangements in compliance with federal and state regulations, such as provider enrollment requirements, Medicare billing rules, the anti-kickback statute, and physician self-referral law (Stark Law).
- Identifying key health care regulatory changes that present potential opportunities or risks for clients and making strategic recommendations.

In addition to his regulatory practice, Gabe frequently represents health care entities in the regulatory aspects of health care transactions, including compliance, corporate structuring, changes of ownership, diligence, enrollment, licensure, and reimbursement. He maintains extensive contacts with state health care regulatory agencies across the country, and is knowledgeable of the many subregulatory policies and processes used by state licensure agencies.

## PROFESSIONAL BACKGROUND

Prior to entering private practice, Gabe worked at the Centers for Medicare & Medicaid Services (CMS)—first in the Center for Medicare & Medicaid Innovation (CMMI), where his work focused on the development of value-based payment models, and later at the CMS Division of Technical Payment Policy (DTPP), which administers the physician self-referral law (Stark Law) for CMS. His experience at CMS included analyses of Stark Law self-referral disclosures submitted through the CMS Self-Referral Disclosure Protocol (SRDP), leading multi-disciplinary teams through proposed and final rulemaking processes, and collaborating with the OIG in the design of fraud and abuse waivers for CMS alternative payment models.

Prior to his tenure at CMS, Gabe spent several years in compliance- and operations-focused management roles at a national home health care provider. He has significant “on-the-ground” experience with more than a dozen unannounced surveys conducted by state survey agencies or The Joint Commission.

## ACHIEVEMENTS

- North Carolina Pro Bono Honor Society – 2020, 2021, 2022
- Centers for Medicare & Medicaid Services, Administrator's Achievement Award – 2017
- Centers for Medicare & Medicaid Services, Administrator's Special Awards in Teamwork – 2015
- Centers for Medicare & Medicaid Services, Administrator's Special Citation Award – 2014

## PROFESSIONAL / CIVIC ACTIVITIES

- American Bar Association
- American Health Lawyers Association
- North Carolina Society of Health Care Attorneys
- North Carolina Bar Association

- Tenth Judicial District Bar Association

## SPEAKING ENGAGEMENTS

- Panelist, "Hunting Pandemic Fraud: Audits and FCA Litigation Resulting From the PHE," American Bar Association, Physicians Legal Issues: Healthcare Delivery & Innovation Conference (7 September 2023)
- Speaker, "Sharing of Innovative Bundled Payments for Joint Replacement: Bundled Payments for Care Improvement and Comprehensive Care for Joint Replacement," Health Care Payment Learning & Action Network (17 August 2015)
- Speaker, "Medicare Bundled Payments for Care Improvement Initiative: Experiences on the Front Lines of Alternative Payment," American Health Lawyers Association (13 May 2015)

## EDUCATION

- J.D., University of Maryland School of Law
- B.A., University of California, Berkeley

## ADMISSIONS

- Bar of Maryland
- Bar of North Carolina

## THOUGHT LEADERSHIP *POWERED BY HUB*

- 1 February 2024, Twelfth Annual "Under the Wire" CLE Webinar
- 21 March 2023 , Rural Emergency Hospitals—Transformative Change or Limited Impact?
- 15 November 2022, Rural Emergency Hospitals: CMS Finalizes Key Policies for New Medicare Provider Type (Part 1 of 2)
- 15 November 2022, Rural Emergency Hospitals: CMS Finalizes Key Policies for New Medicare Provider Type (Part 2 of 2)
- 24 August 2022, Rural Emergency Hospitals: CMS Publishes Proposed Enrollment and Payment Policies for New Medicare Provider Type
- 12 July 2022, New Options for Rural Hospitals: CMS Proposes Conditions of Participation for New "Rural Emergency Hospital" Provider Category
- 5 July 2022, Hospitals, Physician Practices, and Labs – Are You Ready to Report Private Payor Rates for Laboratory Tests?

- 31 January 2022, Medicare Reimbursement for Community Hospital Residency Programs
- 8 November 2021, 2022 OPPS Final Rule Overview: CMS Finalizes Policies on 340B, Hospital Price Transparency, and Inpatient Only List
- 22 July 2021, CMS Proposes to Increase Penalties for Hospital Price Transparency Noncompliance
- 24 February 2021, White Paper: Value-Based Safe Harbors and Exceptions to the Anti-Kickback Statute and Stark Law
- 24 February 2021, Value-Based Safe Harbors and Exceptions to the Anti-Kickback Statute and Stark Law
- 24 December 2020, COVID-19: Reimbursement Corner: Graduate Medical Education Gets Major Boost from Congressional Appropriations Bill
- 13 August 2020, K&L Gates Triage: 340B Update: Appellate Court Upholds 340B Payment Reduction as CMS Proposes Further Reductions for 2021
- 30 July 2020, Appellate Court's Reversal in AHA v. Azar Poses Existential Threat to Medicare Outpatient Prospective Payment System
- 1 July 2020, COVID-19: K&L Gates Triage: Alternative Payment Models: Tied to an Improved COVID-19 Response?
- 19 May 2020, COVID-19: Navigating the Path to Recovery - Planning for Life After 1135 Waivers and Other Regulatory Flexibility Ends (Part 1)
- 29 April 2020, COVID-19: Testing and Treatment to Uninsured Patients - Reimbursement Available Under New HHS Payment Program
- 8 April 2020, COVID-19: CMS Expands Accelerated/Advance Payment Program to Assist Providers Impacted by the Pandemic as AHA and Members of Congress Urge Reductions to Interest Rates
- 20 November 2019, CMS Finalizes Hospital Price Transparency Rule and Proposes New Transparency Requirements for Health Plans
- 29 August 2019, K&L Gates Triage: Activation of Validation Edits for OPPS Providers with Multiple Service Locations
- 8 July 2019, Qui Tam Quarterly - The Department of Justice False Claims Act Policy Issue
- 13 May 2019, CMS Issues Long-Awaited Draft Guidance on Hospital Co-Location and Space Sharing

## OTHER PUBLICATIONS

- "Rural Hospital Support Act aims to offer additional financial assistance for rural hospitals and bolster health care access for rural communities," Medical Economics, 27 April 2023
- CMS Makes Changes to MSSP in 2019 Physician Fee Schedule, JD Supra (December 5, 2018)

- CMS “Goes Fishing” on Stark Law’s Impediments to Value-Based, Coordinated Care, The National Law Review (June 21, 2018)
- Continuing Resolution Creates Significant Changes to Medicare and Medicaid Policies, The National Law Review (March 21, 2018)
- Gainsharing Guidance: Clarification on Cost-Savings Arrangements Between Hospitals and Physicians, Austin Medical Times (March 2018)
- CMS Terminates and Scales Back Mandatory Bundled Payment Models. JD Supra (December 15, 2017)
- Newly-Announced 340B Payment Rule Presents Financial & Operational Challenges to All Covered Entities, The National Law Review (November 6, 2017)
- CMMI Requests Ideas to Spur Innovation and Reduce Burden, The National Law Review (October 10, 2017)
- Hospital Medicare Certification at Risk? CMS Clarifies Inpatient Volume Expectations, The National Law Review (September 26, 2017)
- Dealing with Disasters – Quality Payment Program Exception Available for MIPS-Participating Clinicians and Groups, The National Law Review (September 21, 2017)
- CMS Proposal Terminates and Revises Mandatory Bundled Payment Models, The National Law Review (August 18, 2017)
- MACRA: CMS Proposes Quality Payment Program Updates to Increase Flexibility and Reduce Burdens, American Health Lawyers Association Weekly (July 14, 2017)
- CMS Initiative For Hip And Knee Replacements Supports Quality And Care Improvements For Medicare Beneficiaries, Health Affairs (Nov 16, 2015)

## NEWS & EVENTS

- 7 September 2023, Hunting Pandemic Fraud: Audits and FCA Litigation Resulting from the PHE, Hosted by ABA’s Physicians Legal Issues: Healthcare Delivery & Innovation Conference
- 19 December 2022, K&L Gates Adds 40 Lawyers to Firm’s Partnership

## AREAS OF FOCUS

- Health Care and FDA
- Academic Medical Centers (AMCs)
- Clinical Integration and Accountable Care
- Health Care Fraud and Abuse (U.S.)
- Health Care Transactions

- Hospitals and Health Systems
- Medicare Reimbursement and Enrollment

## INDUSTRIES

- Digital Health
- Health Care Sector
- Lab, Pharmacy, and Durable Medical Equipment
- Post-Acute/Senior Housing and Care

## REPRESENTATIVE EXPERIENCE

- Advised a leading Tennessee-based health system on health care regulatory matters, including the preparation and submission of several hundred licensure filings in connection with its US\$1.34 billion acquisition of a long-term acute care, rehabilitation services, and behavioral health services provider and the related launch of a new, national health system combining acute and post-acute hospitals from both parties.
- Counseled an artificial intelligence-based precision medicine company on health care regulatory compliance matters related to federal and state physician supervision rules and Medicare enrollment requirements for independent diagnostic testing facilities.
- Assessed health care regulatory matters, including issues related to reimbursement, licensure, and Medicare billing compliance, for a national durable medical equipment (“DME”) supplier in its strategic acquisitions of national and regional DME and other health care companies.
- Represented a health system in a complex licensure matter before the California State Board of Pharmacy related to changes of ownership at more than a dozen long-term care hospitals.
- Counsel for a health system in a licensure matter before the Nevada State Board of Pharmacy.
- Provided health care regulatory advice, including detailed guidance on privacy rules, controlled substances prescriptions, and professional licensure requirements, to a publicly traded company in order to facilitate implementation of a nationwide direct-to-consumer telemedicine platform.
- Represented an investor-backed vision group on change-of-ownership matters and other health care compliance issues related to the acquisition of ambulatory surgical centers in Maryland.
- Provided health care regulatory analysis of state licensure and privacy rules for a national retailer seeking to establish a retail program for the sale of prescription eyeglasses and contact lenses.
- Represented a personal care services provider in South Carolina in its plan of correction response to a compliance survey by the state's Medicaid program.



- Represented a California multi-specialty medical group in its plan of correction response to a CMS notice of noncompliance and proposed sanctions.
- Prepared technical analysis for a North Carolina hospital of Medicare overpayments liability related to sleep center claims.
- Advised a Virginia health system on structuring contractual arrangements with heart monitor suppliers to comply with federal and state health care regulations, including the anti-markup rule and anti-kickback laws.
- Analyzed Stark Law compliance of financial relationships with physicians and prepared self-referral disclosures to the CMS Self-Referral Disclosure Protocol for health care provider clients in California, North Carolina, and Tennessee.
- Prepared 50-state surveys related to health care licensure matters for a manufacturer and distributor of medical devices in preparation for several acquisitions, including a remote cardiac monitoring service provider and a Medicare-enrolled independent diagnostic testing facility.
- Represented a molecular diagnostics company in its acquisition of a CLIA-certified and CAP-accredited sequencing laboratory based in Arizona; provided health care regulatory advice regarding government and private payer issues, including compliance assessment target's use of patient assistance programs and co-pay waivers.
- Regulatory counsel to a private hospital for a transaction involving a member substitution between the hospital and a public health department whereby the private hospital became the sole member of the public health department.
- Advised a California-based private equity firm on health care regulatory matters related to its leveraged acquisition of a provider of veteran disability benefits services.
- Analyzed a physician-owned laboratory's arrangements for Stark and AKS concerns, and directed revisions to laboratory contracts and operations to resolve noncompliance.
- Advised a health system on the creation of a prescription assistance program that complies with federal regulations and OIG guidance.
- Drafted internal policies and procedures for a specialty pharmacy standardizing the provision of meals and gifts by salespersons to their physician customers.
- Drafted due diligence report and advised a medical device company on compliance with AKS and Physician Sunshine Act reporting requirements as it prepared for an IPO.
- Analyzed all the lease arrangements of a large health system and advised on Stark and AKS matters, as well as strategic guidance on self-disclosures, operational considerations, and recommended changes to policies and procedures to promote improved compliance.
- As buyer's counsel, performed regulatory due diligence related to hospital change of ownership and processed transfers of licenses, permits, and enrollments.