

## Nathaniel M. Lacktman



**PARTNER**

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Nathaniel (Nate) Lacktman is a partner and health care lawyer with Foley & Lardner LLP. His practice focuses on health care compliance, strategic counseling, enforcement and litigation, as well as telemedicine and telehealth. Mr. Lacktman is listed in 2013, 2014 and 2015 *Chambers USA: America's Leading Business Lawyers*, which says,

*Clients are effusive in their praise, with one saying, 'I would describe Nate as the regulatory guidance expert.'*

Mr. Lacktman is the chief legal counsel to the Telehealth Association of Florida and co-chairs the Telemedicine and eHealth Affinity Group of the American Health Lawyers Association. He serves on the Executive Committee of the American Telemedicine Association's Business & Finance SIG.

### **Health Care Compliance and Counseling**

Mr. Lacktman advises suppliers, skilled nursing facilities, pharmacies, hospitals, physician practices, health plans, consultants and vendors, and a variety of other health care entities on a range of business, legal and regulatory issues affecting the industry. He handles matters involving contracting fraud and abuse compliance, Medicare and Medicaid reimbursement, self-disclosures and overpayments, the Anti-Kickback Statute, physician self-referrals (the Stark Law), health care marketing rules, HIPAA, corporate compliance programs, licensing, contracting, change of ownership, confidentiality and information sharing, and policies and procedures.

### **Telemedicine, Telehealth, Virtual Care**

Mr. Lacktman works with hospitals, health systems, providers and start-ups to build telemedicine arrangements across the United States and internationally. His practice emphasizes strategic counseling, creative business modeling, and fresh approaches to realize clients' ambitious and innovative goals. Representative matters include:



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- » Strategic counsel for multistate licensure and scope of practice issues for direct-to-patient, peer-to-peer, and remote monitoring telemedicine business models. Issues include cross-border compliance, patient consent, practitioner licensure, use of physician extenders, application of telemedicine to consultation exception and call/coverage arrangements, ability to provide telemedicine consults without a prior in-person examination, ability to issue prescriptions following telemedicine consults (controlled substances vs. other prescriptions), and associated recordkeeping requirements.
- » Multistate statutes, pending legislation, and strategic advocacy regarding commercial payor coverage of telemedicine services, including any limitations on scope and reimbursement rates.
- » Corporate practice of medicine analysis and compliance considerations for virtual care physician services across the country.
- » Internet pharmacies and federal and state requirements for remote prescribing.
- » E-prescribing practices and application of e-prescribing to telemedicine consults.
- » Teleradiology and telepathology arrangements and associated licensure and Medicaid reimbursement issues.
- » Contracts regarding virtual care wellness clinic, hormone replacement therapy clinic, and integrative medicine clinic.
- » DTC online urgent care services by physicians.
- » Telehealth payment and reimbursement issues, including Medicare billing requirements and coverage, modifiers, state Medicaid coverage, teleradiology overreads and second reads under Medicaid billing, states with commercial telehealth payment statutes, patient self-pay, employer-pay arrangements, insurance benefit issues, and charging Medicare and Medicaid beneficiaries out-of-pocket for telehealth services.
- » Virtual care terms of service, provider terms of use, notice of privacy practices, consent forms, authorization forms, patient authentication and verification documents, e-signatures, payment acknowledgements, employment agreements, independent contractor agreements, and the multitude of operational documents associated with telehealth practices.
- » Telemedicine service lines, including international telemedicine arrangements, for several different children's hospitals.
- » Strategy and contracting for international telemedicine arrangements between U.S.-based providers and entities across the Globe.
- » Compliance counseling and fraud and abuse guidance for telemedicine companies with multi-state footprints, including Anti-Kickback Statutes, physician self-referral laws, fee splitting rules, healthcare marketing, and corporate practice of medicine.
- » Represent provider group before Florida Department of Health on petition for declaratory statement regarding telemedicine arrangement.

### Thought Leadership

Mr. Lacktman speaks and writes frequently on issues at the forefront of telehealth and is often quoted for his insight about legal and business developments in this area. He has appeared in publications such as *Inside Counsel*, *Buzzfeed*, *Politico*, *Modern Healthcare*, *Forbes*, *Fox News*, *Bloomberg*, *Reuters*, and *Information Week*, among others. For a representative list of his publications and presentations, please [click here](#).



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### Health Care Enforcement and Litigation

In the health care litigation and enforcement context, Mr. Lacktman has focused experience in matters involving enforcement actions by state and federal regulators, qui tam actions and the False Claims Act, internal investigations, ALJ hearings and reimbursement disputes, surveys and deficiencies, medical staff peer review, and long-term care. He has represented health care clients in state, federal and appellate courts, administrative hearings, mediations and arbitrations, including the following representative matters:

- » Internal investigations for DMEPOS suppliers and skilled nursing facilities regarding potential Medicare and Medicaid overpayments and self-disclosures.
- » Representation of suppliers in Medicare and Medicaid ALJ hearings and reimbursement appeals.
- » Representation of hospitals, providers, and suppliers in defense of False Claims Act whistleblower suits.

### Education and Accolades

Prior to joining Foley & Lardner, Mr. Lacktman was a judicial extern for the Honorable Ronald S.W. Lew of the United States District Court for the Central District of California. He was selected for inclusion to the *Florida Super Lawyers® - Rising Stars* lists (2013 - 2015).

Mr. Lacktman received his law degree from the University of Southern California School of Law, where he was an editor for the Hale Moot Court Honors Program. He is a graduate of the University of Florida (B.A., with honors), where he was a University of Florida Scholar, member of Golden Key National Honor Society, and a member of Sigma Phi Epsilon fraternity.

### Community Involvement, Pro Bono and Professional Memberships

Mr. Lacktman is active in the community and is a member of the firm's Tampa pro bono committee. He is a board member of the Gulf Ridge Council Boy Scouts

of America. He serves as a volunteer judge in the Teen Court juvenile diversion program through the Hillsborough County Courts, having first volunteered with the Sarasota Teen Court program over 20 years ago.

He is a member of the American Health Lawyers Association (AHLA), the Health Care Compliance Association (HCCA), the Health Law Section of the Florida Bar, Health Law Litigation Committee of the American Bar Association (ABA), and the American Telemedicine Association. Mr. Lacktman is admitted to practice in Florida and California, including the U.S. Court of Appeals for the 9th and 11th Circuits.

