

# 2022 IOWA SOCIETY OF HEALTHCARE ATTORNEYS CONFERENCE

May 19, 2022



## PROGRAM OVERVIEW

The Iowa Society of Healthcare Attorneys is a personal membership group of the Iowa Hospital Association. This conference provides an annual update about state and federal legislative activities. The sessions are presented by industry leaders and focus on topics affecting the health care industry from a legal perspective.

## TARGET AUDIENCE

- Hospital and health care attorneys.
- Compliance personnel.

## PROGRAM AGENDA

**8 a.m.**      **Registration**

**8:20 a.m.**      **Welcome**

**8:30 a.m.**      **No Surprises Act**  
*Erin Busch, Attorney, Baird Holm, Omaha, Nebraska*

Based on her client experience, the speaker will focus on the No Surprises Act's requirements of greatest importance to hospitals and providers. She will discuss the notice and consent for balance billing, good faith estimate requirements for uninsured and self-pay patients, and alternative dispute-resolution processes. She also will include scenarios hospitals and providers are likely to face.

Learning objectives:

- Describe the two major portions of the No Surprises Act.
- Identify notices that must be provided to the patient.
- Determine the details to include when developing estimates.

**9:30 a.m.**      **Break**

**9:45 a.m.**      **State Legislative Update**  
*Jennifer Klein, Director, Advocacy and Legal Counsel, Iowa Hospital Association, Des Moines*

The speaker will provide a review of 2022 state legislative activity that affects health care and hospitals.

Learning objectives:

- Discuss updates on legislative issues facing the Iowa Legislature and the impact on hospitals.
- Explain how to get involved with Iowa Hospital Association advocacy efforts.

**10:30 a.m.**      **Break**

**10:45 a.m. Case Law Update**

*Colleen Anderson Hartley, Attorney, Dentons Davis Brown, Des Moines; Rebecca Brommel, Partner, Dorsey and Whitney, Des Moines; Chandler Gall, Attorney, Baird Holm, Omaha, Nebraska*

This session will review notable Iowa appellate opinions since last year's conference. Significant opinions from a range of health care practices will be highlighted. Materials will include a compilation of state case law catalogued by topic.

Learning objectives:

- Describe new developments in case law.
- Interpret legal trends that may be developing in Iowa law.
- Review new and notable appellate opinions.

**Noon Lunch and Business Meeting**

**12:45 p.m. Noncompete Contracts: An Overview of the Law, Tips and Holdings**

*William Miller, Partner, and Manuel Cornell, Associate, Dorsey and Whitney, Des Moines*

The speakers will give a case law update and recap about the intricacies of not-to-compete covenants. They will provide tips for drafting or modifying noncompete agreements. Finally, they'll present an overview of instances in which the courts have upheld or invalidated not-to-compete covenants and analyses of the courts' reasonings.

Learning objectives:

- Determine general and new principles of noncompete agreements.
- Discuss tips to ensure a noncompete agreement will not be invalidated.
- Identify how the courts analyze noncompete cases to ensure your company is protected.

**1:45 p.m. Break**

**2 p.m. Certificates of Merit: Where Do We Stand?**

*Jeffrey Kappelman, Attorney, and Aaron Redinbaugh, Attorney, Finley Law Firm, Ankeny*

The speakers will focus on Iowa's law requiring plaintiffs to file a certificate-of-merit affidavit attesting to the claim's merit early in litigation or face dismissal of their claim. They will review the statute and situations in which Iowa's courts have concluded the law does and does not apply. Kappelman and Redinbaugh also will discuss situations and types of cases when the law may apply but have not yet been addressed by Iowa courts. Finally, they will offer tips about ensuring the certificate of merit is considered as a potential early path to dismissal.

Learning objectives:

- Identify elements of compliance for certificate of merit.
- Describe consequences of failing to comply.
- Identify settled issues involving certificate of merit.
- Identify unanswered issues involving certificate of merit.

**3 p.m. Break**

**3:15 p.m. Implicit Bias: A Hidden Risk for Ethical Lawyers**

*Thomas Newkirk, Partner, Newkirk Zwagerman, Des Moines*

Lawyers once only had an obligation to "not openly discriminate." But today, they must have a broader appreciation for the roles of race, gender and other protected factors across a host of decisions and possible microaggressions. Bias can not only affect lawyers in employment decisions but also in personal interactions. Although a lawyer's ethical obligations require advocating for clients, unmanaged implicit bias can easily interfere with that duty. Health care attorneys must have a higher awareness of the risks of bias affecting the evaluation of medical professionals and patients. The speaker will explore the science of implicit bias and its relation to the practice of law in health care.

Learning objectives:

- Describe the role of bias in medical care to better arm lawyers representing hospitals and health care organizations.
- Discuss advances in addressing or remedying the role of bias in decisions.
- Identify bias risks and advance the role of lawyers in ensuring race, gender and other immutable characteristics do not play a part in decision-making.

**4:15 p.m. Adjourn**

## **SPEAKER**

**Rebecca Brommel** is an attorney with Dorsey and Whitney and practices primarily in litigation, administrative law and health law. In Brommel's health law practice, she often represents health facilities that are challenging citations and providers before their professional licensing boards. She also has handled cases involving Medicaid-related issues and frequently represents providers on certificate-of-need-related appeals. She graduated with highest honors from Drake University Law School.

**Erin Busch** is an attorney with Baird Holm. Busch represents hospitals, physicians, physician clinics and specialty health care services providers. Her practice focuses on regulatory compliance and contracting matters, including HIPAA, medical staff and allied health professional issues, Medicare, Medicaid, 340B and the No Surprises Act, with a special emphasis on federal and state privacy laws and data-protection issues. Busch also advises public entities about open meetings, public records and governance issues. She graduated from the University of Minnesota Law School, receiving her Juris Doctor degree magna cum laude. She is licensed to practice law in Nebraska, Iowa and Minnesota.

**Manuel Cornell** is an associate at Dorsey and Whitney. Cornell's practice includes employment, personal injury and complex commercial disputes. He is a member of the executive council of the Iowa Bar Association's Young Lawyers Division and co-chairs the division's diversity committee. Cornell is also a member of the board of directors for Orchard Place in Des Moines and a member of the board of advisers for the Association of Latinx Professionals.

**Chandler Gall** is an associate with Baird Holm. Gall was the recipient of a Center for Computer-assisted Legal Instruction award for business planning. His practice concentrates on health care law and represents providers in regulatory, transactional and reimbursement matters. Gall is a member of the American Health Lawyers Association and the Healthcare Financial Management Association. He graduated cum laude from the Creighton University School of Law. While there, he earned Juris Doctor concentration certifications in business law and health law.

**Colleen Anderson Hartley** is an associate with Dentons Davis Brown and helps health care clients with a variety of health and employment law matters. Anderson Hartley attended the University of Iowa College of Law and received the dean's award for academic excellence in insurance law and legal analysis, writing and research.

**Jeffrey Kappelman's** practice focuses on trial law and appellate practice. In his years at the firm, Kappelman has successfully defended hospitals, clinics, physicians and other licensed health care professionals against claims of medical malpractice. He represents health care providers before professional licensure boards and provides advice and counsel for health care-related administrative proceedings and internal investigations. Kappelman's litigation practice also includes professional liability and malpractice defense, professional licensing, construction law, employment law, products and premises liability, personal injury, wrongful death, and insurance coverage analysis and defense.

**Jennifer Klein** is the director of advocacy and legal counsel for the Iowa Hospital Association. Klein lobbies on behalf of Iowa's hospitals at the state Capitol, ensuring the interests of hospitals are heard and considered by the Executive and Legislative branches of government. She also is the liaison for the Iowa Society of Healthcare Attorneys and is the association's HIPAA privacy officer. Before joining IHA, Klein spent five legislative sessions working with the Iowa Economic Development Authority as their legislative liaison and legal counsel. She received her bachelor's degree in political theory from the University of Virginia and her Juris Doctor degree from the University of Iowa.

**William Miller** is a partner at Dorsey and Whitney. Miller represents health care clients in complex litigation, employment, product liability and personal injury defense. He has been named one of the Best Lawyers in America in the areas of commercial litigation and litigation labor and employment. Miller is a past-president of the Polk County Bar Association and member of the Drake University Law School board of counselors.

**Thomas Newkirk** is the founding partner in Newkirk Zwagerman and has been a civil rights attorney practicing in Iowa for more than 30 years. Newkirk has represented hundreds of people of color and women harmed by discrimination. During the last 20 years, he has devoted considerable time to educating himself about implicit bias and developing methods to reduce bias as a risk in employment, the legal and medical professions, and civil and criminal justice. Besides being a practicing attorney, Newkirk is a sought-out specialist in implicit bias and has presented to, educated and trained people across all demographics. His work encourages organizations to apply science-based advances as they develop policies to reduce the harm created by gender and racial biases in the workplace. Newkirk graduated from Drake University Law School.

**Aaron Redinbaugh** maintains a civil litigation practice in Iowa's state and federal courts. He handles complex litigation and is experienced in medical and professional malpractice defense, construction litigation, wrongful death, long-term care, health law, professional licensing, employment law, premise liability, and insurance coverage analysis and defense. Redinbaugh helps providers with civil litigation, regulatory compliance, and internal and administrative investigations. He also defends licensed architects, design engineers, general contractors and subcontractors in construction-related litigation in state court and in arbitration. Redinbaugh is a member of the Iowa State Bar Association, Polk County Bar Association and the C. Edwin Moore Inn of Court, Polk County.

## REGISTRATION

Register online at [www.ihaonline.org](http://www.ihaonline.org).

## REGISTRATION FEES PER PERSON

- IHA member – \$190
- ISHA member – \$145
- ISHA student member – \$35
- Non-IHA member – \$245

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MEMBER OF  
ISHA!

For information about ISHA student membership email Jennifer Klein at [kleinj@ihaonline.org](mailto:kleinj@ihaonline.org).

## CONTINUING EDUCATION

IHA has been approved for 6.0 hours of state continuing legal education credits and 1.0 hour of diversity credit in Iowa and Nebraska.

## PROGRAM LOCATION

### In person

IHA Conference Center, 100 E. Grand Ave., Des Moines.

- If you have dietary restrictions or allergies, email [iharegistration@ihaonline.org](mailto:iharegistration@ihaonline.org).
- Dress for the conference is business casual. Layered clothing is recommended for your comfort.

### Virtual

This program will also be available through Zoom.

## PROGRAM MATERIALS AND RECORDINGS

- This is a paperless conference. Conference materials will be emailed and in your “My Registrations” on your IHA account when available.
- This program will be recorded and will be available to participants for 30 days after the event.

## LODGING

IHA has a discounted corporate rate that attendees can use for overnight accommodation. The discounted rate is offered to IHA event attendees on “non-last room” availability, meaning there are times when this rate will not be available because of high demand. Book early if you think you may need arrangements. When calling, please reference the corporate ID:

Staybridge Suites Des Moines  
Corporate rate: \$133 per night plus taxes  
515-280-3828  
Corporate ID No.: 786828419

Downtown Embassy Suites Des Moines  
Corporate rate: \$143 per night plus taxes  
515-244-1700  
Corporate ID No.: 560001333

## **REGISTRATION/CANCELLATION/REFUND POLICY**

- Cancellations and substitutions are welcome anytime. Email cancellations and substitution requests to [iharegistration@ihaonline.org](mailto:iharegistration@ihaonline.org).
- IHA will give full refunds to cancellations received 10 or more business days before the conference.
- IHA will charge a \$50 administrative fee to cancellations received six to nine business days before the conference.
- IHA will not refund cancellations received five or fewer business days before the conference.
- IHA will calculate refunds by the date received and the IHA business days remaining before the conference.
- IHA reserves the right to cancel the conference because of low enrollment. If so, IHA will notify preregistered participants and provide full refunds.

## **ADA POLICY**

IHA does not discriminate in its educational programs based on race, religion, color, sex or disability. IHA wishes to ensure no one with a disability is excluded, denied services, segregated or treated differently than others because of the absence of auxiliary aids and services. If you need any of the auxiliary aids or services identified in the Americans With Disabilities Act to attend this conference, call IHA at 515-288-1955, or write to the IHA Education Department.