



CALIFORNIA  
SOCIETY *for* HEALTHCARE  
ATTORNEYS

2023

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ANNUAL MEETING AND  
SPRING SEMINAR

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MAY 5-7 | RENAISSANCE ESMERALDA RESORT & SPA,  
INDIAN WELLS





## PRESIDENT'S MESSAGE

I look forward to seeing you at the CSHA 2023 Annual Meeting & Spring Seminar, May 5-7, at the gorgeous Renaissance Esmeralda Resort & Spa in Indian Wells. You will have three days of opportunities to connect with other CA health lawyers, attend 12 hours of participatory CLE, and free time for you and those with you to enjoy features of the Coachella Valley such as –

- Two National Parks (Joshua Tree and San Jacinto Mountain)
- Palm Canyon Drive, which includes the Palm Springs Aerial Tramway, Art Museum, classic “mid century” architecture and a “walk” of more than 250 stars amid the shops and restaurants
- Historic and scenic desert canyons to explore via hiking trails, by horseback or in off road vehicles
- Shields Date Garden - home of the Date Shake (Indio)
- The Living Desert Zoo and Gardens (Palm Desert)
- Sunnylands Center and Gardens (Rancho Mirage)
- Cabot's Pueblo Museum and many natural Hot Springs (Desert Hot Springs)
- The 9 block El Paseo shopping district (Palm Desert)
- Golf – on courses designed by Nicholas, Norman, Palmer, Player, Dye, and others there is a challenge for just about any game.

On Friday afternoon we will hold a brief business meeting to bring you current information about our Society's operations, finances, and initiatives. Then our Friday evening Welcome Reception and Saturday evening Annual Dinner will provide opportunities to catch up with long time health law colleagues and meet new ones. Also, our new member luncheon on Saturday afternoon welcomes attorneys new to CSHA, committee members, current Board members, and past presidents.

CSHA's 2023 Spring Seminar is sure to be an event to remember. See you soon in beautiful Indian Wells!

Marty Knutson, CSHA President

## GENERAL INFORMATION

### LOCATION

Delight in discovery at Renaissance Esmeralda Resort & Spa, Indian Wells. The resort, just a 20-minute drive from the Palm Springs International Airport, is set within Coachella Valley and evokes a true desert oasis. Soak up breathtaking natural wonders that stretch out in all directions. Enjoy world-class tennis facilities and championship golf courses. Explore all that this destination has to offer including unparalleled relaxation and unscripted outdoor adventure. The hotel's address is 44400 Indian Wells Ln, Indian Wells, CA 92210.

### ACCOMMODATIONS

CSHA has reserved a limited number of rooms at the Renaissance Esmeralda Resort & Spa, available on a first-come, first-served basis at a nightly rate of \$294, plus resort fee and tax.

To make your reservation, call the hotel at (800) 446-9875 and ask for the California Society for Healthcare Attorneys (CSHA 2023 spring seminar) group rate. The deadline for reserving rooms at this rate is April 7, 2023. After that date, reservations will be confirmed subject to general availability.

## TUITION

Fees include seminar, handouts, breakfast each day, Friday lunch, the Friday evening Welcome Reception, and the Saturday evening Annual Dinner. Guests are welcome to attend the Annual Dinner (a guest fee applies). Registrations paid in full and postmarked by April 11, 2023, qualify for a discount in registration.

SEMINAR TUITION		
Rate	Early Payment received by April 11	Regular Payment received after April 11
Member Rate	<b>\$645</b>	<b>\$700</b>
Nonmember Rate*	<b>\$925</b>	<b>\$980</b>

\*Includes 2023 CSHA Membership

Note: CSHA grants a discount to eligible government attorneys, new attorneys and law students. Please visit the CSHA website for additional information.

## REFUNDS/SUBSTITUTIONS/CANCELLATIONS

All cancellations must be in writing and received in the CSHA office by April 14, 2023. Seminar registration fees, minus a \$75 processing fee, will be refunded for cancellations received by the April 14 deadline. Substitutions may be arranged by contacting the CSHA offices.

## MINIMUM CONTINUING LEGAL EDUCATION

The California Society for Healthcare Attorneys is a State Bar of California-approved MCLE provider. The Annual Meeting & Spring Seminar provides up to 12 hours of participatory MCLE credit.

## REASONABLE ACCOMMODATION PURSUANT TO THE ADA

If you require special accommodation related to your attendance at the educational seminar pursuant to the Americans with Disabilities Act, please contact the CSHA office at (530) 760-5222. If you require special accommodation related to your hotel accommodations, please contact the Renaissance Esmeralda Resort & Spa directly at (760) 773-4444.

## SOCIAL EVENTS

### WELCOME RECEPTION

We are pleased to continue the long-standing tradition of social collegiality by offering a Welcome Reception for registered program participants and guests on Friday evening, May 5. The annual cocktail reception provides an excellent opportunity to network with your fellow health lawyer colleagues while enjoying some delicious delectables. Please join us!

### ANNUAL DINNER

This year's Annual Dinner will be held Saturday evening, May 6, at the Renaissance Esmeralda Resort & Spa. Join us for casino night — an evening of casino games, food, fun, and excitement! Spouses and adult guests are welcome to attend the dinner and event for an additional fee of \$85.

### SATURDAY NEW MEMBER LUNCHEON

We are pleased to offer a networking opportunity specifically for attorneys new to CSHA. Members who joined CSHA after April 2022 are invited to attend, as are retired attorney members, CSHA committee members, current CSHA Board members and past CSHA presidents. The luncheon will take place Saturday, May 6, immediately following the morning's educational session.

## ADDITIONAL INFORMATION

### ATTIRE

Casual attire is recommended throughout the conference. We encourage our guests to wear something business casual or nicer for the Saturday evening event.

### TAPE RECORDING

Tape recording of the education sessions is strictly prohibited.

### CONTACT

If you have any questions regarding the 2023 Annual Meeting and Spring Seminar or CSHA membership, please contact Mahsa Farahani, Program & Operations Manager, at (530) 760-5222 or mfarahani@csha.info. You may also visit the CSHA website at [www.csha.info](http://www.csha.info).

# AGENDA

FRIDAY, MAY 5

**7:45 – 8:45 am | Registration and Continental Breakfast**

**8:45 – 9:00 am | Welcome and Introductions**

*Marty Knutson, President, California Society for Healthcare Attorneys*

**9:00 – 9:45 am | Common Pitfalls with Physician Recruitment**

*Gayland Hethcoat II, ArentFox Schiff; Arnold Pamplona, CommonSpirit Health/Dignity Health*

Physician recruitment agreements (PRAs) are an important strategic tool that hospitals and health systems use to cultivate long-lasting medical practices in targeted need areas. A PRA may present a promising opportunity to develop a medical practice in a new community with the support of an established hospital partner or medical group. However, PRAs do not always work out as intended. In this presentation, our speakers will identify three common pitfalls for PRAs and offer suggestions for minimizing the associated litigation, regulatory, and reputational risks. A brief overview of physician recruitment models that hospitals commonly use in California and an overview of the Stark Law recruitment exception will also be included.

**10:00 – 11:00 am | Fostering a Just Culture to Promote Patient Safety: Legal and Regulatory Challenges**

*Margia Corner and Valerie Shelton, University of California, Office of the President*

This presentation will explore the challenges of balancing the competing public policy interests established by the various California laws encountered by those working to foster a just culture and promote patient safety. For example, California's statute keeping peer review information confidential potentially conflicts with state laws that protect whistleblowers or require healthcare professionals to notify government entities of suspected unsafe patient care conditions. The presenters will also address specific challenges related to resident physicians, such as competing education policy objectives of the ACGME and proposed changes to the Medical Board's license application.

**11:00 – 11:45 am | What Every Healthcare Attorney Needs to Know About Employment Law – A Primer**

*Lil Delcampo and Erika Iler, Carlson & Jayakumar LLP*

Whether you represent physicians, health care facilities, payers, or other clients, employment law is a concern for your clients. Our speakers will explain fundamental employment law concepts such as employee handbooks, anti-discrimination and protected class laws as well as employment topics unique to health care and new employment-related laws that took effect in 2023.

**11:45 am – 1:15 pm | Lunch (hosted)**

**1:15 – 2:00 pm | Defending Healthcare Entities Against Class Actions Based on the Use of Website Cookies and Pixels**

*Michael Abraham and Stephen Steinberg, Bartko Zankel Bunzel & Miller, APC*

More than 50 class action lawsuits have been filed recently against healthcare systems based on their alleged use of cookies and pixels on their websites. Cookies and pixels can be useful tools for providing information about utilization of healthcare resources, evaluating users' experience with the website, providing website security, and determining the effectiveness of marketing efforts. However, they can also be a source of potential litigation and risk. Our speakers will discuss recent developments in the courts, recent OCR guidance, proactive

measures to avoid litigation, and effective strategies to defend against causes of action alleging violation of wiretap laws, privacy-related statutes, common law, and constitutional privacy rights.

**2:00 – 3:00 pm | Chief Diversity Officers and Partners**

*Komal Chokshi, San Francisco City Attorney's Office; Eileen Ridley, Foley & Lardner LLP; Yusuf Zakir, Davis Wright Tremaine LLP*

Diversity, equity, and inclusion (DEI) in the workplace continues to be a critical objective for law firms and legal departments alike, as diversity allows for a broader range of perspectives to ultimately achieve the best solutions. Our speakers will share with CSHA their experiences and best practices as the Chief Diversity Partners/Officers in their respective organizations working toward attaining this important goal. They will offer tools and tips for implementing DEI practices in their different organizational models. This presentation qualifies for one credit hour in the Recognition and Elimination of Bias in the Legal Profession and Society.

**3:15 – 4:15 pm | Hot Topics in Managed Care Reimbursement**

*Damaris Medina, Buchalter APC; Joel Richlin, Prime Healthcare Services*

According to the 2021 census, two-thirds of all Americans with health insurance were enrolled in managed care. Managed care reimbursement, then, is of enormous significance to the entire healthcare system, as it determines who has access to needed healthcare services and whether providers can afford to continue providing that care. This presentation will analyze emerging and disputed issues in managed care reimbursement, including the practical impacts of these issues.

The discussion will include recent cases addressing the following topics:

- non-contracted provider payment disputes with Medicare Advantage Organizations;
- potential governmental immunity for county-organized health plans offering coverage under the Exchange;
- non-contracted provider payment disputes with Medi-Cal Managed Care Organizations; and
- non-contracted provider payment disputes with Knox-Keene plans.

Finally, the speakers will discuss a new process developed by the Department of Managed Health Care, the Department of Health Care Services, and the California Hospital Association to report reimbursement concerns to the appropriate government oversight agency.

**4:15 – 5:00 pm | Update: Implementation of the No Surprises Act and the Independent Dispute Resolution Process**

*Amanda Hayes-Kibreab, King & Spalding LLP*

The rollout of the federal No Surprises Act has been bumpy – to say the least – with more than a few surprises. This session will provide a comprehensive update on the implementation of the No Surprises Act, including the Independent Dispute Resolution (IDR) process and the Good Faith Estimate (GFE) requirements. The speaker will also analyze developments in recent and ongoing litigation challenging various aspects of the IDR process as well as the status of existing and expected regulations addressing the IDR process and GFE requirement. Finally, the session will explore what practical steps providers are taking to implement the GFE requirements as well as solutions for engaging in the IDR process efficiently and effectively.

**5:00 – 5:15 pm | CSHA Annual Member Meeting**

*Marty Knutson, President, CSHA*

**5:15 – 7:00 pm | Welcome Reception (hosted)**

## SATURDAY, MAY 6

### 7:30 – 8:45 am | Breakfast Roundtables

#### 9:00 – 10:00 am | Health Litigation Update

*Peder Batalden and H. Thomas Watson, Horvitz & Levy, LLP*

The authors of CSHA's email appellate case updates will reprise their popular annual session highlighting recent appellate court decisions that will affect the California healthcare industry for years to come. Panelists will focus on decisions impacting hospitals, physicians, medical staffs and payers.

#### 10:15 – 11:15 am | Involuntary Psychiatric Holds and Due Process Rights: What's New in 2023

*Linda Garrett, Garrett Law LLP; Alicia Macklin, Hooper Lundy & Bookman, PC; Mike Phillips, Jewish Family Service of San Diego*

Governor Newsom signed legislation last year that is already impacting hospitals and physicians that serve involuntarily detained mental health patients. AB 2275, effective Jan. 1, 2023, clarifies exactly when the maximum 72-hour detention period starts to run; requires providers to notify the patient's rights advocate if a patient is detained longer than 72 hours in a facility that has not been designated by a county to detain patients under the Lanterman-Petris-Short Act; and gives patients detained for 7 days or longer the right to a certification review hearing. Our panelists will share ideas for meeting these new requirements, clinician documentation of probable cause findings to foster both patient rights and public safety, and the intersection between EMTALA obligations and California's involuntary hold statutes.

#### 11:15 am – 12:15 pm | California's Skilled Nursing Sector: Crisis, Reaction & Opportunity

*Mark Reagan, Hooper Lundy & Bookman, PC*

The COVID-19 pandemic created dramatic challenges for California's skilled nursing sector – and these challenges have been exacerbated by a series of legislative and regulatory actions seeking to ensure greater oversight, compliance, and transparency. This patchwork of governmental actions will change how post-acute and long-term care services are delivered and financed in California. This session will explore these changes, their impact on California health care and Californians, and the chances for success — or at least survival — of skilled nursing providers.

#### 12:15 pm – 1:15 pm | New Member Luncheon

Members who joined CSHA after April 2022 are invited to attend, as are retired attorney members, CSHA committee members, current CSHA Board members and past CSHA presidents. Please note that advance registration is required.

#### 6:00 – 8:30 pm | CSHA 2023 Annual Dinner (hosted)

This year's Annual Dinner, to be held at the Renaissance Esmeralda Resort & Spa, will feature casino night. Join us for an evening of casino games, food, fun, and excitement!

## SUNDAY, MAY 7

### 8:00 – 8:30 am | Registration and Continental Breakfast

#### 8:30 – 9:30 am | Navigating the 340B Universe: Critical Developments and Practice Points

*Emily Jane Cook, McDermott Will & Emery; Natalia Mazina, Mazina Law; Emily Jane Cook*

This presentation will provide an update on the federal 340B program, which allows safety net providers to purchase outpatient drugs at a deeply discounted price. Our speakers will focus on the following issues:

- The anatomy of 340B pharmacy contracts;
- Updates on drug manufacturers' restricting policies and attempts to limit 340B drug access at contract pharmacies;
- Overview of key legal actions seeking to enforce covered entities' right to 340B prices for drugs dispensed at contract pharmacies;
- Discussion of state and federal legislation aimed at curbing manufacturers' restricting policies;
- The future of the 340B program; and
- Practice points for covered entities to overcome or minimize issues with drug manufacturers.

#### 9:30 – 10:30 am | Identifying Red Flags for California Public Agencies

*Adriana Ochoa, Procopio, Cory, Hargreaves & Savitch LLP*

This presentation will cover special legal issues for public agency clients, including how to properly hold virtual meetings under the Brown Act in a post-Covid landscape and other new public meeting requirements; which records are public records and how to avoid disclosure of exempt records; how to create new opportunities through Joint Powers Authorities; and how public officials can comply with conflict of interest rules.

#### 10:45 – 11:45 am | Ethical Considerations Involved in the In-House/Outside Counsel Relationship

*Jonathan Herman, Herman Law Firm; Chris Mardesich, Molina Healthcare, Inc*

Join us for a practical and candid discussion of the top do's and don'ts between in-house and outside counsel, with ethical considerations faced by each in representing their respective clients. Particular attention will be given to the role of an attorney serving as a compliance officer, ethical issues that can arise for the attorney serving as a compliance officer, ethical issues inherent in an attorney representing an organization, and ethical constraints to alternative fee arrangements. This presentation will incorporate references to the CA Rules of Professional Responsibility applicable to each of these topics and qualifies for one credit hour of Ethics.

#### 11:45 am | Adjournment and Distribution of MCLE Certificates





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