

October 30, 2017

CURRICULUM VITAE

JOHN D. HARWELL

Law Office of John D. Harwell
225 27th Street
Manhattan Beach, CA 90266
Tel: 310.546.7078
jdh@harwellapc.com

Education¹

Hastings College of the Law, University of California, J.D., 1978. Ranked 42 of 460 in class. Executive Editor, Editorial Board, Hastings International and Comparative Law Review.

San Diego State University, 1973, M.A., Education.

New College, Oxford University, 1972, C.Phil, Greats (Honour School of Literae Humaniores).

United States International University, San Diego, CA, and East Grinstead, Sussex, England, B.A., 1971. Political Science, American Literature. Undergraduate average 3.9 (4.0 scale).

Experience²

1992 to Present - Private Practice (and since February 2013) Of Counsel to Cohen & Lord. Private practice limited to healthcare issues, with emphasis in representation of academic medical center practice groups, physicians, medical groups, Hospital Medical Staffs, Independent Practice Associations, Management Service Organizations, physician managed care alliances, professional societies and similar entities; freestanding imaging centers, ambulatory surgery centers, Medicare Part B suppliers, Workers' Compensation providers and other non-hospital healthcare providers. Arbitrator, Mediator and Hearing Officer in Medical Staff matters. Advisor to state and county medicaid programs regarding managed care issues involving physicians, with emphasis on structuring physician risk-taking rules.

¹Degree institutions listed only. Other institutions attended for licensure qualifications. Details provided upon request.

²Rated "A[®]V[®]" by Martindale Hubble;[®] Listed in *Best Lawyers in America*, Health and Administrative Law, 2007 - 2018 (Lawyer of the Year, 2014, 2015), *Super Lawyers*, 2010 - 2018.

2016 to Present - Professor of Anesthesia, Keck School of Medicine, University of Southern California. In a joint (voluntary - akin to adjunct) academic appointment with the USC Ostrow School of Dentistry, developing and presenting a course on Public Policy and Legal Issues for the online Masters Degree program in Pain Medicine. The program will provide licensed clinicians, such as psychologists, nurses, occupational and physical therapists, dentists, and physicians with advanced education in the area of Pain Medicine.

2015 to Present - Lecturer at UCLA Fielding School of Public Health.

1990 to 1992 - Private Practice (as above) and Of Counsel to Hirschtick, Chenen, Lemon, Cohen & Linden.

1987 to 1990 - Shareholder and Principal in Hirschtick, Chenen, Lemon & Curtis, Los Angeles, Ca. Managing Director 1989 - 1990.

1981 to 1987 - Memel, Jacobs, & Ellsworth, Los Angeles, CA. Partner in Health and Litigation Departments. Chairman, Summer Associate Committee. Member, Hiring Committee. Designated National Marketing Partner for Healthcare Antitrust Matters.

1978 to 1981 - Breed, Abbott & Morgan, New York, N.Y. Associate in Antitrust/Litigation Departments.

1977 to 1978 - California Supreme Court. Law Clerk to Justice Wiley W. Manuel.

Scope of Responsibilities

Currently, as well as at Hirschtick, Chenen, Lemon & Curtis and at Memel, Jacobs, & Ellsworth, responsible to healthcare clients for healthcare matters, including litigation, administrative appeals, fraud and abuse (Medicare, Medicaid and Workers Compensation), medical staff credentialing, HIPAA and other privacy issues, and antitrust counseling, compliance programs, labor relations and contractual relationships.

Advisor to state departments of health and county health organizations on issues including managed care provision of physician services, contracting with risk sharing providers and revision of statutes and regulations. Consultant to state agencies on regulation of managed care entities. Representation of British Overseas Territory of Bermuda in design of Certificate of Need program to advance government's health care

system.

Representation of national, state, and local physician, non-hospital facility, academic medical center physician groups and other providers in legislative and regulatory matters. Representation has included participation with national healthcare reform initiatives; representation of medical equipment supplier organizations (Member, Board of Directors, National Long Term Care Association); and representation of national and state medical speciality organizations in scope of coverage issues, including national coverage issues.

Medicare representation includes representation in all aspects of Medicare matters, provider joint ventures and fraud and abuse issues, including compliance and enforcement matters. OIG designated compliance supervisor. Court recognized expert in fraud and abuse matters and Evidence Code Section 1157 privilege issues.

Antitrust counseling and compliance activities include counseling clients on possible antitrust implications of mergers, acquisitions, joint ventures, pricing policies, physician incentive programs, medical staff credentialing, and other medical staff-hospital joint programs. Significant representation of clients before Antitrust Division, Department of Justice and Federal Trade Commission in merger and acquisition matters. Experienced in antitrust litigation matters including healthcare and nationwide complex class actions (fine paper, cardboard box, plywood, master key, vent pipe, helium).

General representation in formation of alternative delivery systems, including outpatient treatment centers, HMO's, PPO's, IPA's, MSO's, PHO's, and management, professional service and similar operational agreements.

Representation of physicians includes Medical Board of California enforcement actions seeking revocation of professional license; representation of clients in medical staff credential matters, including limitation of clinical privileges, revocation of staff privileges and planning of credential process³; general litigation matters; and contractual relationships, including contract formation and litigation.

Service as a Arbitrator, Mediator and Hearing Officer in medical staff matters has

³The American Journal of Surgery has published (Vol. 184, pp. 101 - 104) an article I have co-authored on reform of the proctoring process to avoid unnecessary reporting to state agencies and the National Practitioner's Data Bank and to clarify liability to patients for negligent acts of the proctored physician and the proctoring physician.

included over 150 hearings as the Hearing Officer in judicial review hearings or board appeal hearings, in all instances representing the hearing body.⁴

Representation of independent Medical Staffs in governance, Bylaw and Medical Staff disciplinary matters

Representation of professional societies, physician groups, other providers and consumer groups in connection with ensuring coverage and provision of appropriate services by managed care entities, including HMO's.

At Memel , Jacobs & Ellsworth, litigation included administrative matters before Federal Regulatory agencies, appellate litigation before state and federal appellate courts and healthcare litigation for hospital clients. Healthcare representation included Medicare, Certificate of Need and peer review matters for hospital clients.

At Breed, Abbott & Morgan, antitrust counseling with clients on merger and acquisition matters. Representation of clients before Antitrust Division of Department of Justice and Federal Trade Commission in merger, acquisition and pricing matters. Representation of clients in complex antitrust litigation, including nation-wide class actions.

Bar Admissions

Admitted to practice in California; New York; United States District Courts in California, New York, Michigan; Second, Sixth and Ninth Circuit Court of Appeals and United States Supreme Court.

Affiliations

Member, American Bar Association; Association of the Bar of the City of New York; American Health Lawyers Association; California Society for Health Care Attorneys; California Academy for Attorneys for Healthcare Professionals. Faculty member, American College of Healthcare Executives.

⁴The American Journal of Surgery has published an article (Vol. 182, pp. 103-109) I have co-authored on reform of the peer review process to minimize punitive effect and increase corrective nature of peer review.

Speaking Experience

Faculty member, American College of Healthcare Executives. 1984-1985, conducted series of 2-day seminars on Antitrust and the Healthcare Executive, 1986, conducting series of 2-day seminars on the Legal Risks in Competition.

Presentations (1985 - Present) to regional and state H.F.M.A. groups on Legal Risks in Competition, fraud and abuse and physician affiliation.

Presentation (1986) to Seattle Area Hospital Council on Legal Risks in Competition, with emphasis on alternative delivery systems and physician incentive programs.

Presentation (1986) to Maine Hospital Association on Legal Risks in Competition.

Presentations (1984 - Present) to Medical Staffs, physician groups and others regarding regulatory and contract issues, including to AMA/AHLA seminars on Physician Strategies for Survival.

Presentations (1989 - Present) to AMA/American Health Lawyers Association seminar on Physician Survival Strategies, focusing on Medicare Part B matters.

Presentations (1989 - Present) to KPMG Peat Marwick in-house continuing professional educational seminars focusing on antitrust and Medicare fraud and abuse matters and issues of interest to extended care facilities, Medicare Part B suppliers and physician groups.

Presentations (1989 - 1996) jointly with KPMG Peat Marwick to healthcare provider groups with focus on Medicare and managed care contract issues.

Presentations (1991 - Present) to American Healthcare Lawyers Association on physician issues in Managed Care Contracts, funding of Graduate Medical Education, Healthcare Reform, Medicare and Medicaid fraud and abuse.

Presentations (1991 - Present) to American Hospital Association on physician issues in joint venturing.

Presentations (1991 - Present) to American Healthcare Association on Medicare reform in long term care settings.

John D. Harwell
Curriculum Vitae
October 30, 2017
Page 6

Presentations (1993 - Present) to California Association of CPA's on healthcare legal issues affecting healthcare providers and physicians.

Presentations (1993 - Present) to American Association of Oral and Maxillofacial Surgeons on Healthcare Reform and Medical Staff issues.

Annual (1996 - Present) Grand Rounds, U.C.L.A. School of Medicine, Department of Surgery, on medical staff credentialing, physician group contracting issues and reporting to California Medical Board and National Practitioner's Data Bank.

Training program (1998) to New York Dept. of Health on regulation of managed care entities and limitation of liability to physician providers.

Other Work Experience

High School Teacher (English and Journalism), Coachella Valley Joint Union High School and College of the Desert, 1971 - 1975. Life Secondary Education Teachers Credential.

Sports Writer and Photographer - First Down (English magazine on American Football); Touchdown (German magazine on American Football), 1984 - present; owner, Fotosports International, sports photo agency.