

ROBERT G. MARASCO

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PROFESSIONAL SUMMARY

A corporate leader and former healthcare practice group chair and federal prosecutor skilled in business counseling, compliance, data privacy, tackling fraud and abuse, leading investigations, mitigating business and legal risks, and managing difficult negotiations. Extensive healthcare experience ranging from medical staff matters to fraud and abuse and compliance.

EXPERIENCE

Color Health, Inc., Burlingame, CA

3/2022 - Present

A healthcare company specializing in population health programs, such as essential care for employees and large-scale public health initiatives throughout the United States.

- **Vice President and Chief Compliance Officer**
- Hired as first Chief Compliance Officer for national healthcare company.
- Responsible for constructing company-wide compliance program.
- Oversee and manage compliance with laws, regulatory requirements, policies, and procedures for a multi-faceted healthcare company.

Procopio, Cory, Hargreaves & Savitch LLP, San Diego, CA

2/2013 – 12/2016; 8/2019 – 3/2022

A full-service law firm based in San Diego; recognized as a top 200 firm by *The American Lawyer*.

- **Partner** in the Health Care and Litigation Practice Groups & **Chair of the Health Care Practice Group**, and charter member of the Firm's Racial Equality Task Force.
- Aid healthcare and life science clients with complex civil and white collar criminal litigation matters, including:
 - healthcare fraud and abuse actions (Anti-Kickback Statute, Stark Law, False Claims Act); Foreign Corrupt Practice Act (FCPA); matters involving the U.S. Department of Justice, U.S. Attorney's Offices, U.S. Department of Health & Human Services, Office of Inspector General (HHS-OIG), Securities & Exchange Commission (SEC), and State Attorney General Offices.
 - Internal investigations related to fraud, employee embezzlement, and FCPA compliance.
- Advise healthcare and life science clients on compliance with healthcare laws, fraud and abuse laws, and data privacy and security laws, including the Health Insurance Portability and Accountability Act (HIPAA) and California Confidentiality of Medical Information Act (CMIA), among others.
- Serve as outside counsel to laboratories, hospital systems, independent physician associations, foundation-based physician groups, and community clinics; handle litigation on a variety of healthcare matters.
- Serve as medical staff counsel for multiple hospitals within single system in San Diego, CA.
- Appointed as the Firm's first HIPAA Privacy Officer to manage the creation, documentation, and implementation of a new HIPAA/data privacy compliance program; to train all management and personnel; and to handle day-to-day responsibilities of maintaining HIPAA compliance, including internal investigations.
- Served on the Firm's Office of Risk Management and Compliance; assisted former General Counsel with ethical issues related to internal matters and clients; and served as Acting GC when necessary.

Dinsmore & Shohl LLP, San Diego, CA

12/2016 – 7/2019

A full-service law firm with more than 650 attorneys and 26 offices; recognized as a top 125 firm by *The American Lawyer*.

- Partner in the Health Care and Litigation Practice Groups.
- Aid healthcare and life science clients with complex civil and white collar criminal litigation matters,

specializing in healthcare fraud and abuse actions, data privacy, and FCPA issues.

- Conduct internal investigations; implement and update compliance programs; and coordinate corporate responses to subpoenas and governmental investigations.
- Serve as outside counsel to various clients such as healthcare systems, medical device and diagnostic companies, independent physician associations, physician groups, clinics, and government contractors, regarding data privacy, compliance, business practices, and litigation needs.
- Aid clients who have been victims of fraud recoup their stolen monies.
- Proposed and drafted policy and protocol for a pro bono program, where one had not existed, that was accepted by the Management Board and implemented firm-wide; serve as office pro bono coordinator.

U.S. Department of Justice, United States Attorney's Office

7/2008 – 2/2013

District of New Jersey and Southern District of California, Newark, NJ and San Diego, CA

Assistant United States Attorney

- Lead prosecutor on hundreds of investigations of both individual and corporate targets.
- Managed all aspects of litigation, e.g., investigation, discovery, negotiation, prosecution, and sentencing.
- Focus on white collar (fraud and healthcare) violations of federal laws and regulations.
- Negotiated hundreds of agreements with individual and corporate targets.
- Maintained active national security clearance at Secret level.

Gibbons P.C., Newark, NJ

9/2005 – 7/2008

A full-service law firm based in New Jersey; recognized as a top 200 firm by *The American Lawyer*.

- Conducted internal investigations and litigated cases for healthcare and life science companies relating to healthcare compliance and fraud, including off-label marketing, government payor fraud, anti-kickback allegations, money laundering, tax and other business frauds.
- Granted Top Secret level national security clearance for work involving national security offenses.

The Honorable Joel A. Pisano, U.S.D.J.

9/2004 – 9/2005

United States District Court for the District of New Jersey, Newark, NJ – Judicial Law Clerk

The Honorable Dorothea O'C. Wefing, P.J.A.D.

9/2003 – 9/2004

New Jersey Superior Court, Appellate Division, Jersey City, NJ – Judicial Law Clerk

- Aided the Court in civil matters including labor and employment, patent, contract disputes, jurisdictional challenges, et al., as well as discrete projects in criminal matters, through legal research and the drafting of memoranda and opinions for the Court.

EXPERTISE & REPRESENTATIVE EXPERIENCE

Healthcare Compliance

- Advise healthcare and life science clients on compliance with federal and state healthcare laws, including fraud and abuse laws (Anti-Kickback Statute, Stark Law, False Claims Act, *qui tam*/whistleblower), and data privacy and security laws such as the Health Insurance Portability and Accountability Act (HIPAA) and California Confidentiality of Medical Information Act (CMIA), among others. The matters require litigating against and/or negotiating with the U.S. Department of Justice, U.S. Attorney's Offices, U.S. Department of Health & Human Services, Office of Inspector General (HHS-OIG), and State Attorney General Offices.
 - Represent international pharmaceutical company during internal investigation and in response to federal investigation for alleged off-label marketing and Anti-Kickback violations based upon its promotional programs for Medicare-covered tests.
 - Represent a genomic diagnostic company in San Diego accused by whistleblower and federal authorities of violations of the Anti-Kickback Statute and False Claims Act based upon its promotional programs for Medicare-covered tests.

- Represent public health plan in California during state investigation into state False Claims Act violations and secured close of investigation without any charges.
- Represent a diagnostic laboratory in San Diego during investigations of both criminal and civil violations of the Anti-Kickback Statute and False Claims Act based upon its marketing and promotional programs for Medicare-covered tests.
- Represent multiple laboratory and diagnostic companies for purposes of assessing, implementing, or improving their fraud and abuse compliance and data privacy programs.
- Represent public life sciences company with regard to its sales, promotional, and marketing programs.
- Represent multiple laboratory and diagnostic companies relating to promotional and assistance programs.
- Represent the largest national hearing aid manufacturer as outside counsel for fraud and abuse and HIPAA compliance matters.
- Represent an imaging center in San Diego for fraud and abuse and HIPAA compliance matters.
- Represent a community information exchange in San Diego regarding data privacy compliance.
- Represent an independent living care center in San Diego regarding data privacy compliance.
- Represent multiple individuals and corporate entities related to subpoenas, interviews, and document demands as part of law enforcement fraud and abuse investigations. If clients were targets of the investigations, would engage in litigation and/or negotiations with federal and state authorities.
- Represent an outpatient treatment center regarding allegations of insurance overpayments.
- Represent physician regarding reimbursement issues that arose despite a Medicare opt-out.
- Represent a software company regarding HIPAA obligations in creating and maintaining software programs for use by chiropractor offices.
- Represent medical group related to billing issues with Medicare, Medicaid, and Tricare.
- Represent federally qualified health center with respect to community and charity assistance programs.

Litigation/Investigations

- Litigate and investigate a variety of civil and white-collar criminal cases for both individual and corporate clients.
 - Represent a multi-hospital system in San Diego against lawsuit by a physician alleging whistleblower retaliation under H&S § 1278.5, and secure judgment for the hospital.
 - Represent a multi-hospital system in San Diego against lawsuit by a physician/former medical director alleging adverse employment action and retaliation under H&S § 1278.5 and secure judgment for the hospital.
 - Represent the medical staffs of multiple San Diego hospitals regarding credentialing, peer review, bylaws, and disciplinary hearings.
 - Represent a clinic in Northern California during audit of Medicare claims by HHS-OIG and challenged findings through the appeal process; secured more than 50% reduction.
 - Represent a diagnostic laboratory in San Diego in a whistleblower lawsuit in federal court filed under the False Claims Act and secure dismissal of criminal investigation and favorable settlement of civil investigation.
 - Conduct multiple internal investigations for various corporate and non-profit victims of employee embezzlement and recoup the losses through litigation.
 - Represent U.S. subsidiary of international company to conduct internal investigation relating to possible violations and potential reporting obligations under the Foreign Corrupt Practices Act.
 - Represent U.S.-based company investigated and charged for violating U.S. and international import/export laws.
 - Represent law firm in San Diego subjected to a search warrant for privileged information and

secured return of all privileged information without disclosure.

- Represent staffing company related to employment class-action litigation.
- Represent charter school related to adverse employment action litigation.
- Represent multiple nurses regarding licensing issues before the California Board of Registered Nursing.
- Represent an individual and his company implicated in nation-wide fraud scheme involving college admissions.

General Counseling

- Advise corporate entities as outside counsel on business, employment, and legal matters.
 - Represent the medical staffs, as outside medical staff counsel, at five hospitals within a single hospital system in San Diego, handling all aspects of the role from counseling of daily unexpected issues, applications and credentialing, to Judicial Review committee hearings for actions taken against a physician, and reporting to the Medical Board of California and the National Practitioner Data Bank.
 - Represent a more than 300-member foundation-based physician group in Sacramento in contract negotiations and arbitration relating to physician services agreements and fair market valuations.
 - Represent foundation-based physician group in San Diego as outside general counsel, including advice to Board regarding compliance with corporate formalities and compliance with regulatory guidelines.
 - Represent independent physician association (IPA) with more than 700 physician members in San Diego regarding various corporate and healthcare issues.
 - Represent IPA in Riverside regarding various corporate and healthcare issues and arbitration with affiliated hospital.
 - Represent a community clinic organization in San Diego and member clinics regarding healthcare and data privacy compliance, employment matters, and affiliation agreements in order to ensure creation of an organized healthcare arrangement.
 - Represent a Native American clinic in San Diego regarding healthcare and data privacy compliance.
 - Represent community clinic in San Diego regarding efforts to become an approved radiology provider for Medi-Cal.
 - Represent community of retirement, active adult, memory care, and skilled care centers in Southern California regarding data privacy compliance and in contract negotiation with affiliated hospital systems.
 - Represent company that manufactures equipment for government entities regarding regulatory compliance as governmental contractor and employment matters.
 - Represent caviar company regarding corporate formation and structure, asset acquisition, and distribution contracts.
 - Represent company specializing in water management systems regarding corporate formalities, business contracts, and employment matters.
 - Represent accounting and insurance firms regarding subpoena compliance and internal compliance procedures.

ADDENDUM

EDUCATION

Seton Hall University School of Law, Newark, NJ

June 2003

Juris Doctor

Honors: Faculty Scholarship; Post-Graduate Samuel J. Heyman Fellow

Activities: Student Bar Association, *President*

Faculty Appointments Committee, *Student Representative*

Honor Council, *Secretary*

College of the Holy Cross, Worcester, MA

May 1997

Artium Baccalaureatum in Classics

Activities: Varsity Baseball

Judicial House Council, *Inaugural Board Member*

SPEAKING ENGAGEMENTS

- I have appeared numerous times and am regularly asked to appear on television news programs to speak on a variety of newsworthy legal topics.
- *From Med Tech Device Innovators to Healthcare Systems - What is The Role of HIPAA in the Internet of Medical Things* (co-presenter), Procopio Privacy Symposium, December 1, 2021
- *What the Future Holds for Enforcement of Privacy Laws: What to Expect from Privacy Regulators and How to Respond* (co-presenter), Procopio Privacy Webinar, February 9, 2021
- *PPP: Did you really qualify, and what are the risks if you got the money anyway?*, Webinar co-presenter, May 12, 2020
- U.S. Inspector General Criminal Investigator Academy Training Program, Instructor, San Diego, CA, Dec. 11-13, 2018
- *Fraud and Enforcement Trends – Current and Former Prosecutor Perspectives*, Panelist, CBI Life Sciences West Coast Compliance Congress, San Francisco, CA, Oct. 17, 2018
- *Embezzlement . . . So You Think It Can't Happen to You*, Co-Presenter, California Workforce Association Annual Conference, San Diego, CA, May 3, 2018
- *Government Investigations: Lessons and Preparations*, Renaissance Executive Forum – CEOs, San Diego, CA, June 7, 2017
- *Cybersecurity*, Panelist, Provisors – Corporate Deal Professionals, San Diego, CA, June 7, 2017
- *The Business of Marijuana*, Panelist, Six Degrees, Hall of Champions, San Diego, CA, Feb. 9, 2017
- *Government Investigations: Lessons and Preparations*, Renaissance Executive Forum – CEOs, San Diego, CA, Jan. 17, 2017
- *Foreign Corrupt Practices Act – A Practical Perspective*, San Diego County Bar Association, San Diego, CA, Dec. 5, 2016
- *The Attorney-Client Privilege in the Global Context*, Panelist, University of San Diego School of Law – Procopio International Tax Institute, San Diego, CA, Oct. 21, 2016
- *Nightmares on Cyber Street: Recent Developments in Data Privacy Litigation and Cyber Insurance*, Panelist, San Diego County Bar Association, San Diego, CA, Oct. 17, 2016
- *Beware: The DOJ is Targeting You*, Association of Corporate Counsel, San Diego, CA, April 19, 2016
- *How to Prepare Your Team for an Internal Investigation – Scoping Your Action Plan to Avoid Common Pitfalls and Costly Mistakes*, Panelist, American Conference Institute, FCPA Compliance & Enforcement, San Diego, CA, July 29, 2015
- *Why What You Know About Protecting Privacy Might Be Wrong*, Panelist – The Center for Ethics in Science and Technology, San Diego, CA, May 6, 2015

- *Government Investigations: Lessons and Preparations*, Renaissance Executive Forum – CEOs, Temecula, CA, March 11, 2015
- *Government Investigations: Lessons and Preparations*, Renaissance Executive Forum – CEOs, Corona, CA, March 10, 2015
- *California Privacy Breaches: Surviving Two Regulators*, Co-Presenter, Association of Corporate Counsel, San Diego, CA, Nov. 13, 2014
- *Government Investigations: Lessons and Preparations*, Renaissance Executive Forum – CEOs, San Diego, CA, Oct. 8, 2014
- *Government Investigations: Lessons and Preparations*, Renaissance Executive Forum – CFOs, San Diego, CA, Sept. 18, 2014
- *Government Agents are Here to Speak with You*, Association of Corporate Counsel Health Law Roundtable, San Diego, CA, July 24, 2013

PUBLICATIONS

- *U.S. Government Contractors Face Increased Risk of Cybersecurity Enforcement* (co-author), Procopio Client Alert, October 13, 2021
- *Ransomware Attacks Are On The Rise: Are You Prepared?* (co-author), Procopio Client Alert, October 30, 2020
- *The Feds Are Investigating PPP Recipients: Are You Safe?*, Procopio Client Alert, October 29, 2020.
- *Beware the Siren Song of the PPP*, Procopio Client Alert, May 9, 2020
- *California Relaxes Telehealth Services Rules In Light of COVID-19*, Procopio Client Alert, April 7, 2020.
- *CMS Approves Additional Medicaid Section 1135 Waivers in Light of COVID-19*, Procopio Client Alert, March 26, 2020
- *California Governor Authorizes Expansion of Health Care Workforce and Facilities*, Procopio Client Alert, March 21, 2020
- *HIPAA: Disclosure of PHI during the COVID-19 Pandemic*, Procopio Client Alert, March 18, 2020
- *7 Ways to Protect Your Business From Insider Fraud*, PropertyCasualty360.com, Feb. 2, 2018
- *War on Weed: AG Jeff Sessions Creates Reefer Madness* (co-author), Dinsmore Client Alert, Jan. 5, 2018
- *Escobar's Effect on False Claims Act Qui Tam Actions* (co-author), Law Journal Newsletters – Business Crimes Bulletin, Oct. 2, 2017
- *Ransomware Affecting Healthcare Entities*, Dinsmore Client Alert, June 29, 2017
- *I Should Have Read the Rules of Professional Conduct . . .*, Ethics in Brief, SDCBA, Feb. 13, 2017
- *Maintaining the Cone of Silence: How far do we have to go?*, Ethics in Brief, SDCBA June 20, 2016
- *Proposed Ethics Rules: Speak Now or Forever Hold Your Peace*, Ethics in Brief, SDCBA, June 8, 2015
- *The most beneficent force... or the worst*, Daily Journal, March 5, 2015
- *Smith & Wesson Holstered by the SEC Over FCPA Violations: Lessons Learned*, Procopio Client Alert, July 30, 2014
- *Encryption – Don't Leave Home (or Work) Without It*, Procopio Client Alert, July 29, 2014
- *Are You FCPA compliant?* (co-author), Procopio Client Alert, March 10, 2014
- *Are You Ready for a Government Investigation?*, Procopio Client Alert, Nov. 25, 2013
- *Is Your Business HIPAA Compliant?*, Procopio Client Alert, Oct. 1, 2013
- *The Heart of the Matter: Scope and Standards of Review* (co-author), Third Circuit Appellate Practice Manual, April 2007
- *Practice Pointers for Expungement*, The Essex County Chronicle, March 2006

CIVIC ACTIVITIES

- American Diabetes Association, San Diego Chapter – *Father of the Year Committee* (formerly)
- Holy Cross Lawyers Association – *Board of Directors*
- Holy Cross Club of San Diego
- La Playa Neighborhood Watch – *Captain*
- LEAD San Diego – *LEAD Influence 2019*
- San Diego Teen Court – *Volunteer Judge*
- San Diego Yacht Club – *Commodore’s Dinner Speaker Series Committee*
- Seton Hall University School of Law – *Alumni Mentor, former Alumni Council and Adjunct Professor*
- Superior Court of California, San Diego County – *Judge Pro Tem*
- The New Children’s Museum – *Board of Directors* (charter member of Diversity, Equity, Accessibility & Inclusion Committee; Nominating & Governance Committee, *Chair*; Audit Committee, *Chair* (formerly))

PROFESSIONAL ACTIVITIES

- American Bar Association – *Health Law Section and Healthcare Fraud and Compliance Group*
- American Health Lawyers Association
- American Inns of Court, Louis M. Welsh Inn of Court – *Active Alumnus*
- Association of Business Trial Lawyers, San Diego – *Board of Governors*
- Biocom – *Covid-19 Return to Work Task Force*
- California Society for Healthcare Attorneys – *Authorized Hearing Officer*
- Federal Bar Association, SDCA chapter – *Professional Development Committee*
- Health Care Compliance Association
- Lawyers Club of San Diego – *Human Trafficking Task Force* (formerly)
- National Association of Criminal Defense Lawyers – *White Collar Crime Committee*
- San Diego County Bar Association – *Legal Ethics Committee* (2014 - 2018)
- U.S. Attorney’s Office of DNJ Alumni Association – *Board of Trustees*
- U.S. District Court, SDCA – *Lawyer Representative* (2018 - Present)

BAR & COURT ADMISSIONS

- California; New Jersey; New York; Washington, DC
- U.S. Courts of Appeals: Ninth Circuit, Third Circuit
- U.S. District Courts: Southern District of California; Central District of California; Northern District of California; District of New Jersey; Southern District of New York; Eastern District of New York; Northern District of New York

