



## Joseph R. LaMagna

**Partner**

**Co-Chair, Fraud & Abuse Practice Group**

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### **CAPABILITIES**

Compliance

False Claims Act

Hospital-Physician  
Integration

Litigation, Mediation,  
Arbitration

Managed Care

Medicare, Medicaid, Other  
Governmental  
Reimbursement and  
Payment

Public Agency Law

Reproductive Health

Hospice

Pharmacies

### **EDUCATION**

University of San Diego  
School of Law, J.D., *cum laude*  
, 2006

Cornell University, B.S., 2003

### **BAR ADMISSIONS**

California, 2006

Massachusetts, 2007

New York, 2008

“Health care law is as complex as the actual delivery of health care. Oftentimes, the successful resolution of a regulatory or compliance dispute comes down to clearly explaining the interaction between the regulatory structure and reality of health care delivery.”

Joe LaMagna has spent his entire legal career advising health care providers in a wide range of regulatory compliance issues and litigation proceedings. With a lengthy record of positive outcomes inside and outside the courtroom, Joe is a litigator who brings regulatory and compliance perspectives and insights to his advocacy in trials, arbitrations, mediations, administrative hearings, and appeals.

No matter the nature of the proceeding, Joe articulates how complex, abstract regulatory schemes interact with the real-world, practical challenges of health care delivery and oversight. His clients include healthcare providers, hospitals, long-term acute care hospitals, skilled nursing facilities, hospice, home health, long-term care pharmacies, specialty pharmacies, DME suppliers, physicians, medical groups, clinical laboratories and behavioral health and substance abuse providers. Representing the diverse range of providers and suppliers help give Joe perspective that he can share with regulators and payors.

Joe’s practice focuses on the inevitable disputes that occur when payment for health care goods and services are at issue. He represents providers and suppliers in payment disputes with managed care entities and other payors and guides them in regulatory litigation and compliance matters. He also defends his clients in audits and government investigations, always looking for collaborative resolutions but equally prepared to go toe-to-toe with government attorneys when necessary or advantageous. Joe also has extensive experience with e-discovery protocols, cost-shifting, and e-discovery review platforms, which leads to cost-effective and efficient responses to subpoena and discovery demands.

Compliance counseling complements Joe’s litigation practice. He has provided fraud and abuse training and education to multiple diagnostic laboratory companies, home health providers, and skilled nursing facilities. He has also reviewed proposed business arrangements between providers and marketers for risks and exposure under state and federal law.

## Representative Matters

### *Compliance*

- Provided fraud and abuse training and education to multiple diagnostic laboratory companies, home health providers, and skilled nursing facilities
- Reviewed proposed business arrangements between providers and marketers for risks and exposure under state and federal law

### *Administrative Law and Hearings*

- Appeared in hearings involving the California Board of Pharmacy, the California Department of Health Care Services, the California Department of Public Health, and before both the Office of Administrative Hearings and Appeals (“OAHA”), the Office of Administrative Hearings (“OAH”), and the Departmental Appeals Board (“DAB”)
- Successfully Defended Pharmacy in a hearing seeking revocation of its license
- Successfully represented skilled nursing facility through hearing in its efforts to receive reimbursement for costs associated with an related entity
- Currently representing a hospice provider in the longest administrative hearing in history before the OAHA (more than 34 days of hearing)
- Represented several skilled nursing facilities before the DAB to challenge survey deficiencies

### *Litigation – Managed Care Disputes*

- Co-chaired a 24-day arbitration involving over 340 claims, securing a favorable decision on all but 7 claims, recovering more than \$6.5 million for a hospital network against a national insurer and third party administrator
- Recovered millions of dollars through negotiations and demand letters, including underpaid trauma claims
- Represented hospitals in disputes with state hospitals securing recovery of millions of dollars of underpayments
- Successfully defeated motions to dismiss on ERISA preemption grounds, making it possible for favorable resolution and payment of millions of dollars through mediation and settlement negotiations
- Successfully challenged state underground regulations in state court
- Second-chaired and successfully defended skilled nursing provider in a five-day trial initiated by a former patient for alleged unlawful discharge and seeking readmission
- Successfully opposed motion to certify a class in litigation brought by an uninsured patient alleging that hospitals illegally charged uninsured patients chargemaster rates
- Handled dozens of lawsuits to challenge A and AA state citations against skilled nursing facilities
- Negotiated class action settlement alleging violation of patient rights
- Filed writ to challenge exclusion of non-provider practitioners
- Successfully challenged illegal recovery of Quality Assurance Fees by the State of California
- Many successful mediations and settlement negotiations

### *Responding to Audits and Investigations*

- Represented several pharmacies in responding to audits initiated by pharmacy benefits managers (“PBMs”)
  - Appeared at PBM hearings regarding termination from network
- Represented dozens of SNFs in rate audits by DHCS
- Handled dozens of subpoenas, including third party subpoenas, HHS OIG subpoenas, DOJ CIDs, and Department of Defense Tricare subpoenas, involving SNFs, hospitals, and pharmacies
- Met with various OIG and DOJ attorney regarding investigation findings and settlement demands

- Represented clients while government executed search warrants, including skilled nursing and ambulance providers
  - Successfully asserted federal Quality Assurance Privilege in state court to stop review of seized electronic data seized pursuant to a search warrant
- Facilitated dozens of self-disclosures and repayment negotiations, including disclosures the OIG, DHCS, TriCare, and Medicare
- Led internal investigations for alleged resident abuse, patient deaths, false claims, and kickback arrangements
- Defended grand jury subpoenas and proffer negotiations with U.S. Attorney's Office
- Successfully secured motion to stay civil lawsuit while underlying criminal investigation of SNF continued
- Successfully secured motion to stay audit appeal proceedings while criminal investigation of pharmacy continued
- Currently defending pharmacy and its owner in state court for an alleged criminal kickback scheme

#### *E-Discovery*

- Extensive experience with e-discovery protocols, cost-shifting, and e-discovery review platforms, which leads to cost-effective and efficient responses to subpoena and discovery demands
- Supervised team of more than ten attorney-reviewers in ensuring assertion of privileged documents and challenging breadth of inquiries

#### Recognition

- Super Lawyers, Southern California, Rising Star, 2015-2016 and 2021
- California State Bar, Recipient of the Wiley W. Manuel Award for pro bono service, 2009-2010.
- Best Lawyers, Health Care Law, 2024

#### Professional Affiliations

- American Health Lawyers Association
- California Society for Healthcare Attorneys
- American Bar Association
- San Diego County Bar Association
- BIOCOM

#### Community

- Legal Aid Society

#### News

- Twenty-One HLB Attorneys Have Been Named "Best Lawyers in America 2024" and Five HLB Attorneys as "Ones to Watch"
- Hooper, Lundy & Bookman Celebrates 35 Years!
- HLB Attorneys Author False Claims in Healthcare
- Hooper, Lundy & Bookman Congratulates 2021 San Diego Super Lawyers
- Hooper, Lundy & Bookman Ranked in the 2020 Edition of US News/Best Lawyers in America Best Law Firms

#### Insights

- Clinical Labs: Vital Part of the COVID-19 Response and Now the Focus of Government Scrutiny
- DHCS 340B Drug Pricing Self-Audit Requests
- MOB Leases With Unusual Terms Withstand Appraiser Whistleblower Claims
- A New Rush of Class Action Suits Attacking Hospital Emergency Room Level Charges
- Hooper, Lundy & Bookman Opens Boston Office

## Events

- HLB 2019 Managed Care Update Seminar
- The First Half is In the Books — What's In Store for the Rest of 2019
- CAHF's Annual RAP Session and Trade Show
- The First Quarter is In the Books — What's In Store for the Rest of 2019
- Hooper, Lundy & Bookman, P.C. and FTI Consulting, Inc. Present: 2017 Health Care Fraud & Abuse Update Seminar