

OUR PRACTICE

Public Hospitals and Health Systems

Baker Donelson is one of the few law firms in the United States with a significant practice representing public hospitals and public health systems. Public hospitals face many of the same legal and regulatory challenges as private hospitals, but many of their needs are different, and sometimes conflicting. By focusing on public entities, we believe our public health practice – whose leader is also the general counsel of an eight-hospital, 2,077-bed public health group – can provide service tailored to meet the needs of the hospital or health system.

From acquisitions and bond financing to regulatory oversight and investigations, the attorneys in Baker Donelson's Health Law Department have experience handling virtually every aspect of legal work for public hospitals and health systems. Teamwork is a hallmark of our firm. When necessary, we also rely upon the knowledge and experience of colleagues from our other practice groups.

We have extensive experience representing independent health care authorities in states such as Louisiana and Alabama, where community-owned, not-for-profit hospitals operate as quasi-independent public entities, exempt from certain laws but constrained by others that limit their scope of operations, govern procurement and hiring and firing, or control contracts, indemnity provisions and liability. We understand the important differences between health care authorities and county-owned systems, because we have represented both.

Baker Donelson has broad financing experience, including work for public health authorities in states that grant taxing power. We have also helped hospitals and health systems issue tax-exempt bonds and obtain other types of financing. We have assisted with the acquisition and sale of public health assets, including hospitals – often a delicate, highly charged and much-publicized topic of public concern.

On a day-to-day level, we handle virtually every legal matter a public hospital or health system might face: issues of reimbursement, audits, compliance, investigations, employment, medical staff peer review and credentialing.

More broadly, we represent the interests of public hospitals at state legislatures and all levels of the federal government. With Medicare, for example, we have argued for – and obtained – increases in the wage index that affects reimbursement and has a profound effect on the financial viability of public health systems, which rely heavily on government payments. We likewise have experience in advocating for and obtaining disproportionate share (DSH) payments for hospitals that provide extensive non-reimbursed care, including complicated situations involving cross-border care.

Representative Matters

- Represented a publicly traded health care company in settling an employee classification audit with the Internal Revenue Services (IRS) that could have resulted in an assessment of millions of dollars. The audit involved a proposed reclassification of thousands of surgeons and optometrists as employees and not independent contractors. We assisted our client in the management and settlement of this audit for a nominal sum.
- Represented a public hospital company in connection with negotiation and drafting of a \$200 million electronic medical record, clinical software, hosting, and implementation services agreements for over 100 hospitals.

- Applied for and obtained first Certificate of Public Advantage issued in Louisiana for two public hospitals which needed the COPA to be able to jointly negotiate reimbursement rates and otherwise cooperate in ways that could raise issues under state and federal antitrust law.
- Assisted a due diligence team in reviewing and summarizing the terms of hundreds of franchise agreements for a national hotel chain under intense deadlines.