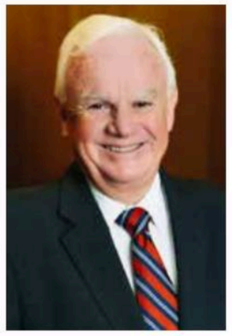
Q&A WITH ATTORNEY FRANK E. REARDON

"GOING TO COURT" WITH HEALTH CARE
WHAT ORGANIZATIONS NEED TO KNOW



Frank E. Reardon

Attorney Reardon and PLDO health care, employment and business lawyers routinely monitor the issues addressed above and other related matters. To stay updated on new laws and regulations, or to learn more about mediation and legal services, please contact Attorney Reardon at 401-824-5100 or email freardon@pldolaw.com.

THE **HEALTH CARE INDUSTRY** HAS UNDERGONE A SEA CHANGE SINCE THE AFFORDABLE CARE ACT BECAME LAW IN 2009. WITH THE NEW TRUMP ADMINISTRATION, THERE ARE MANY UNKNOWNS AS TO WHAT CHANGES OR MODIFICATIONS WILL OCCUR TO THE LAW.

One change happening in the last few years is that physicians are becoming entrepreneurs and starting businesses. This structure for the delivery of health care brings risks and opportunities. One concern is the rise in litigation and workplace issues with employees.

Frank E. Reardon is a prominent Massachusetts health care lawyer and litigator who has affiliated with Pannone Lopes Devereaux & O'Gara LLC in a strategic alliance to better serve an ever-expanding base of clients throughout New England. The affiliation is structured to address the multitude of legal issues faced today by physicians and other health care-related organizations.

The following Q&A is provided to describe some of the more pressing issues and what health care organizations should be aware of now and in the future.

Q. Litigation can cost hundreds of thousands of dollars. What is the advantage of mediation or arbitration as opposed to going to court? Is one better than the other?

A. *Attorney Reardon:* Health care litigation has dramatically evolved over the past decades. Litigation is difficult, time-consuming and stressful which is why litigation avoidance strategies are critical. This is especially true when representing health care professionals and institutions where their reputation for providing competent, appropriate care is so important to the community they serve. Due to our experience with the various types of disputes that can arise in a health care setting, we are often called upon to mediate conflicts either in the workplace or with government agencies. We have also been called upon by the American Health Lawyers Association to conduct training sessions in mediation and to serve as arbitrators of such matters as credentialing, fraud and abuse, employment disputes and hospital/provider contracts. Often, these disputes can be resolved prior to becoming engaged in the time and expense of protracted litigation because we have seen these issues before and know the path to resolution. The key is being involved early on so that the situation can be strategically managed from the outset.

Q. The health care industry is typically one of the largest employers in any state. How does an employer manage and/or reduce the number of employee claims in large organizations?

A. *Attorney Reardon:* Health care corporations are among the largest employers in most sections of the United States. During the second half of the twentieth century, a multitude of new state and federal laws and regulations were enacted which recognized the importance of being free from harassment and discrimination in the workplace. As a result, there was a dramatic increase in the number of employment actions confronting health care administrators. The allegations have involved complaints of sexual harassment; gender and racial discrimination; and whistle blowing. Staying up-to-date on state and federal employment laws and training staff about best practices in the workplace can reduce the number of claims. We represent our clients in state and federal courts and administrative agencies, and conduct training sessions to ensure that the workplace is free from inappropriate conduct.

"WE REPRESENT OUR CLIENTS IN STATE AND FEDERAL COURTS AND ADMINISTRATIVE AGENCIES, AND CONDUCT TRAINING SESSIONS TO ENSURE THAT THE WORKPLACE IS FREE FROM INAPPROPRIATE CONDUCT."

Q. Physicians and other medical providers are becoming business owners. Are there specific risks to this new model and what should they be aware of?

A. *Attorney Reardon:* The practice of medicine is heavily regulated at both the state and federal level. In recent years, many clients have sought to enter into employment contracts or affiliation agreements with other providers or enter into business transactions with non-providers. Legal advice regarding such arrangements is critical to avoid running afoul of federal and state laws prohibiting fee splitting or the corporate practice of medicine. We have advised our clients about the nuances of safe harbor provisions that govern such relationships and state specific prohibitions such as the practice of medicine by unlicensed individuals as well as the regulation and oversight by state and federal licensing boards.

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