

## MARK S. KOPSON



### Partner

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Mark S. Kopson, a partner in Plunkett Cooney's Bloomfield Hills office, chairs the firm's Healthcare Industry Group.

Mr. Kopson represents numerous healthcare facilities, professional practices, physician-hospital organizations, integrated delivery systems and managed care entities in the state of Michigan and throughout the United States.

Mr. Kopson has extensive experience and expertise in the areas of managed care negotiation, contracting, dispute resolution and regulation, as well as HIPAA, Stark and Anti-kickback compliance and agency investigation response.

In addition, he represents providers in the defense and appeal of audits by governmental and commercial payors. His practice also includes the formation and counseling of joint ventures and the sale and purchase of commercial entities and real estate.

An accomplished author and sought-after speaker, Mr. Kopson frequently presents educational programs to various legal and healthcare industry groups.

### Representative Client Work

- Provided all legal services for the formation of a 1,000+ member multi-specialty accountable care physician organization and negotiated affiliation agreements for collaboration with another multi-specialty physician organization

### Areas of Practice

- Administrative & Regulatory Law
- Alternative Dispute Resolution
- Business Enterprises Law
- Corporate Compliance
- Healthcare Law
- Real Estate Law

### Honors & Awards

- Martindale-Hubbell's highest rating-AV Preeminent™ Peer Review Rated. AV Preeminent is a certification mark of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell® certification procedures, standards and policies.
- President's Scholar
- Dean's Scholar
- Frank Murphy Honor Society
- Insignis Academic Scholar
- Alpha Sigma Nu Honor Society
- American Jurisprudence Book Awards: Contracts, Torts, Bills and Notes, Constitutional Law

### Education

- University of Detroit School of Law, magna cum laude, J.D., 1985
- University of Detroit, summa cum laude, B.S., 1981

### Bar & Court Admissions

- Michigan, 1986
- U.S. District Court, Eastern District of Michigan, 1986
- U.S. Court of Appeals, Sixth Circuit, 1986

- Advised and counseled multi-specialty physician organization in the formation of a hospital-physician accountable care organization and negotiated bylaws and internal participation agreements on behalf of the physician members
  - Advised and counseled major health system in the formation of a hospital-physician alliance organization, requiring extensive consensus-building among diverse membership and drafting of governing documents and affiliation agreements and procedures
  - Drafted and assisted in the negotiation of state-wide commercial and governmental payor contracts for multi-state health system
  - Successfully negotiated managed care participation agreements for HMO, PPO, Medicare and Medicaid products, with local, regional and national payors on behalf of an integrated delivery system comprised of five hospitals and over 500 physicians, resulting in substantially increased reimbursement and significant additional contractual protections for client providers
  - As Co-counsel for an integrated multi-provider network, prosecuted a multi-million dollar arbitration claim for breach of a managed care contract, resulting in mid-seven-figures settlement in client's favor
  - Helped a physician practice successfully challenge the pay-for-performance payment and related public "score" proposed by one of its major payors, resulting in additional performance-based bonus payments and an improved quality ranking in the payor's publicly distributed materials
  - Negotiated and drafted HMO joint-venture documents on behalf of a 2,300-member physician network
  - Conducted Fraud and Abuse, Stark Act, HIPAA, and CLIA compliance analysis on behalf of physicians, clinics, ambulatory surgery centers, laboratories, imaging facilities, and DME suppliers, and assisted those clients in structuring their arrangements to maximize profits and compliance
  - Counseled a PHO regarding potential anti-trust exposure posed by its existing payor contracting arrangements and its anti-trust compliance options, and subsequently helped the client form and successfully implement a legally compliant "messenger model"
- U.S. Supreme Court, 2006

- Counseled and drafted all documents for the formation of 300-member physician organization and negotiated its subsequent formation of, and entry into, a physician-hospital organization to maximize its managed care viability
- Represented a de-participated physician against a major insurer and HMO in State and Federal court litigation and subsequent arbitration proceedings, resulting in full-participation status and a six-figure monetary award to client
- Successfully resolved a PHO client's six-figure dispute with an HMO regarding the financial risk settlement under their participation contract through facilitative mediation
- Assisted numerous health care providers in the formation of professional corporations, limited liability companies and general business corporations, including the drafting of entity formation and governance documents and consensus-building among diverse participants
- Represented a group of five physicians in the termination of their hospital employment agreements, their purchase of practice-related assets from the hospital, the formation of a new practice entity, the lease of office space, and the launch of their successful independent practice
- Assisted foreign-owned entity in overturning an unfavorable arbitration award through litigation, thus allowing client to negotiate a more favorable out-of-court settlement
- Negotiated the sale of a multiple-physician, family medicine practice to a major hospital system, including all related transaction documents, real estate lease, physician employment agreements, and personal services contract, thus allowing retiring client physician to enjoy the well-deserved fruits of his decades of practice
- Assisted Kentucky group of anesthesiologists in their transition from independent practice to a hospital-employed group, including the successful negotiation of assets and administrative services arrangements and multi-year physician employment agreements
- Successfully defended client specialist physician against her former employer's allegations of breach of a Non-compete Agreement and in the formation and successful launch of her independent specialty practice

## Professional Affiliations

- State Bar of Michigan (Health Care Law Section – member Governing Board Council; former chair, Payors Subcommittee and former member Technology Subcommittee of Substantive Law Committee; Business Law Section)
- American Bar Association (Business Law, Health Law, and Law Practice Management sections)
- American Health Lawyers Association (Practice groups: Payors, Plans and Managed Care - vice-chair Membership and past chair Managed Care Affinity Group, Physician Organizations, Fraud and Abuse, Antitrust, Health Information and Technology, and Hospitals and Health Systems; member Board Mentoring Committee)

## Publications and Lectures

- “Perplexing Problems: Payor – Provider Contracting in the Post-PPACA Era,” Presenter, American Health Lawyers Association Payors, Plans and Managed Care Law Institute, Swissotel Chicago, Boston, MA, Dec. 6-7, 2011

- “Bedeviled by Details: Managed Care Contracting in the Post-reform Era,” Chapter author, Health Law Handbook, 2011 Edition, Thomson/West, 2011
- “Healthcare Reform – Where Are We Now?,” Presenter, Michigan Association of CPAs Mega Conference, Bavarian Inn Lodge, Frankenmuth, MI, Oct. 27, 2011
- "Health Plans Contracting Handbook: A Guide for Providers and Payors," chapter author, Sixth Edition, American Health Lawyers Association, 2011
- “Overview of Legal Issues In International Medical Tourism,” Presenter, MediTour Expo – Pioneering The Future In Global Healthcare, South Point Hotel, Las Vegas, NV, May 23-24, 2011
- “Hot Topics in Managed Care Contracting and Their Financial Impact,” Michigan Association of CPAs Healthcare Conference, Presenter, Laurel Manor, Livonia, Thursday, April 28, 2011
- "Square Peg – Round Hole: Challenges in Post-Reform Managed Care Contracting," Presenter, American Health Lawyers Association Annual Meeting, Seattle, Wash., June 28-30, 2010
- "Key Issues in Physician Assistant Employment Agreements," Presenter, Michigan Academy of Physician Assistants' 6<sup>th</sup> Annual Professional Issues Symposium, Motor City Casino Hotel, Detroit, April 17, 2010
- "Legal Landmines In Pain Management," Health Care Weekly Review, Vol. 26, No. 11, April 1, 2010
- Medical Tourism: Implications for Providers and Plans, J. Health & Life Sci. L., at 147, January 2010
- Representing Physicians Handbook: Reimbursement of Physician Services, Second Edition, American Health Lawyers Association, 2009(chapter co-author)
- "Medical Tourism: Implications For Providers and Plans," presented at the AHLA Annual Meeting, Washington Marriott Wardman Park, Washington, D.C.; June 29 - July 1, 2009
- "Never Say Never - CMS Extends "Never Event" Nonpayment Policy to Physician Services," MD News, April 2009
- "Competition-Sauce for the Goose? Feds Continue to Target Physician Groups for Antitrust Violations," MD News, December 2008
- Managed Care Contracting Handbook: A Guide for Providers and Payors, Fifth Edition, American Health Lawyers Association, 2008 (chapter author)
- “Health Plan Contracting: Hot Topics and Contracting Strategies for Payors and Providers,” AHLA Teleconferences, Oct. 30 and Nov. 14, 2008 (panelist)
- “The CMS Five-Star Rating System,” and “The OIG’s Supplemental Compliance Program Guidance for Nursing Facilities,” presented at the Plunkett Cooney Extended Care Seminar, Troy Marriott Hotel, Troy, Michigan; Oct. 24, 2008
- “Advanced Issues In Payer/Provider Contracting,” presented at the AHLA Payors, Plans and Managed Care Law Conference, Westin Boston Waterfront, Boston, Massachusetts; Oct. 13-14, 2008
- "It's 2008 – Do You Know Where Your Payor Contracts Are?" MD News, September 2008
- “What You Need to Know Before Signing that Contract,” presented at the Michigan State University College of Osteopathic Medicine Statewide Campus System Family Medicine Education Day, Okemos Michigan; Sept. 3, 2008
- “Pay-for-Performance and Provider Performance Ratings – How To Improve Their Impact On Your Bottom Line,” MD News, July 2008

- “Economic Credentialing: What, Why and How,” presented at the Michigan Podiatric Medical Association Great Lakes Conference XXII; Northfield Hilton, Troy, Michigan; March 14, 2008
- ICLE 14th Annual Health Law Institute; The Inn at St. John’s, Plymouth, Michigan; March 7, 2008
- “‘Who Stole My Plan’ and ‘Pray for Performance’: Current Bestsellers for Contracting Physicians,” presented at the AHLA 2008 Physicians and Physician Organizations Law Institute, Loews Portofino Bay Hotel at Universal Orlando, Orlando, Florida; Feb. 13–14, 2008
- Health Law Practice Guide, Thomson/West, 2007 (co-author Chapter 23, “Managed Care Contracting In 2007”)
- “Current Issues In Payor Contracting,” presented at the American Podiatric Medical Association Seventh Annual Joint National Podiatric Carrier Advisory Committee and Private Insurance Advisory Committee Representatives’ Meeting; Marriott Key Bridge, Arlington, Virginia; Oct. 19- 20, 2007
- “Contractual Negotiations Between Payors and Providers,” presented at the AHLA/AHIP 2007 Law Conference for Health Plans, Insurers and Providers; The Westin Diplomat Resort, Hollywood, Florida; May 9-11, 2007
- “Physician Assistant Contracting – Requirements and Key Terms,” presented at the Michigan Academy of Physician Assistants; Sheraton Hotel, Lansing, Michigan; April 14-15, 2007
- “Good News and Bad News for Physicians: Compliance Enforcement Developments,” Principal Health PHO Newsletter, July 2006
- “Reimbursement of Physician Services,” Representing Physicians Handbook, American Health Lawyers Association, 2005 (chapter editor)
- “Application of Federal Antitrust Laws to Healthcare Providers,” Laches, September 2005
- “Healthcare Antitrust Update,” Principal Health PHO Newsletter, September 2005
- “Good News from the Government...No, Really,” Principal Health PHO Newsletter, May 2004
- “Avoid Antitrust Violation When Determining Payment for On-Call Coverage,” Credentialing & Peer Review Legal Insider; January 2004 (contributing consultant)
- “Hot Issues in Recent PO and PHO Managed Care Negotiations,” Health Care Weekly Review, March 6, 2002
- “Six Steps to a Successful Practice Buy-in,” Medical Economics, Feb. 24, 1997 (contributing consultant)

## Publications

- Legal Landmines in Pain Management
- Medical Tourism: Implications for Providers and Plans
- Three Steps to Immediately Reduce Healthcare Compliance Exposure
- Never Say Never
- Federal Appellate Court Applies Stark and Anti-Kickback Laws to Anesthesiologists’ Exclusive Contract and Pain Management Arrangements
- Feds Move to Extend ‘Never Event’ Nonpayment Rules Beyond Inpatient Hospital Services
- Pay-for-Performance and Provider Performance Ratings – How To Improve Their Impact On Your Bottom Line
- Application of Federal Antitrust Laws to Healthcare Providers
- Flight and Fight: Medical Tourism

- Competition – Sauce for the Goose?

## Speaking Engagements

- Health Care Reform Webinar
- Extended Care Seminar & Mock Trial - Nov. 6

## News

- Kopson to Address Managed Care Disputes, Litigation at National Forum
- Kopson reappointed vice chair of national healthcare law organization
- Plunkett Cooney names healthcare specialist Kopson as its newest partner
- New Nursing Home 'Star' Rankings May Cloud the Big Picture
- Seminar to slash trail through extended care industry legal jungle
- Kopson among featured speakers at national podiatric meeting