



A Look Forward and Back: AHLA's Annual Meeting

H. Carol Saul and Alexander B. Foster

The American Health Lawyers Association (AHLA) held its Annual Meeting on June 24 - 28, 2017 in San Francisco, California. The meeting “[o]ffer[s] the most current information and analysis of myriad legal issues the health care industry is facing in a thoughtful, practical solution-oriented way . . .”¹ This year, four AGG attorneys attended the conference, including Carol Saul, Alex Foster, Jason Bring, and Jerad Rissler. The purpose of this bulletin is to provide a number of high level points from a small sample of the conference’s detailed and timely educational sessions.

- The past year was full of important updates from a legislative and regulatory standpoint. We saw the back-and-forth on the repeal and replacement of the Patient Protection and Affordable Care Act (an ongoing issue), significant False Claims Act recoveries in healthcare actions, a slew of kickback settlements in multiple healthcare spaces, and an increase in health provider hacking. We also saw significant rulings on nursing home arbitration agreements, substantial HIPAA-related fines and collections, and the advent of the Medicare Access and CHIP Reauthorization Act, better known as MACRA.²
- All healthcare attorneys should continue to follow the *American Health Care Act* (AHCA). In “The Affordable Care Act: Navigating the Uncertainty,” presenters focused on not only the proposed AHCA, but also the current impact of the PPACA, which includes significantly higher premiums in 2017, fewer health plans available, and lower than projected enrollment. Given the uncertainty in the PPACA, AHCA, and the transition between the two if AHCA passes, the healthcare insurance space is even more volatile and unpredictable than usual.³
- In health IT and digital health, presenters reviewed the 21st Century Cures Act,⁴ the current FDA review of computer diagnostic software and electronic medication administration systems, and the Mobile Health Apps Interactive Tool produced by the FTC, along with other IT and digital developments.⁵
- For attorneys working with federal and state regulators, there have been updates in the administrative law space, including H.R. 76 (the Separation of Powers Restoration Act of 2017), a House bill that would modify the scope of judicial review of agency actions and would authorize courts reviewing agency actions to decide de novo all relevant questions

¹ <https://www.healthlawyers.org/Pages/Annual-Meeting.aspx?AMId={361592B6-BD1E-E611-9409-0050569E348F}&IHClId={9E0C89EE-B91E-E611-9409-0050569E348F}&TermBegins=07/01/2016&TermEnds=06/30/2017> (last visited July 17, 2017).

² Elizabeth B. Carder-Thompson & Jack S. Schroder, Jr., *Year in Review*, AHLA ANNUAL MEETING (June 26, 2017).

³ Ankur J. Goel & Julie S. Miller, *The Affordable Care Act: Navigating the Uncertainty*, AHLA ANNUAL MEETING (June 27, 2017). For more AGG articles on the AHCA, see <http://www.agg.com/Senate-Revises-American-Health-Care-Act-06-28-2017/>, <http://www.agg.com/American-Health-Care-Act-Impact-on-Georgia-Hospitals-05-30-2017/> (last visited July 17, 2017).

⁴ For AGG articles on 21st Century Cures, see <http://www.agg.com/Expanded-Requirements-for-Expanded-Access-The-21st-Century-Cures-Act-Places-New-Requirements-on-Manufacturers-and-Distributors-01-24-2017/> (last accessed July 17, 2017), <http://www.agg.com/21st-Century-Cures-Act-Brings-New-Research-Funding-and-Changes-to-the-FDA-12-13-2016/> (last accessed July 17, 2017), and <http://www.agg.com/Expansion-of-the-Humanitarian-Use-Device-Program-under-the-21st-Century-Cures-Act-01-24-2017/> (last accessed July 17, 2017).

⁵ Afia Asamoah et al., *When Health Care Meets Technology: What Lawyers Need to Know in the Era of Health IT and Digital Health*, AHLA ANNUAL MEETING (June 27, 2017).

of law, including the interpretation of constitutional and statutory provisions and rules made by agencies.⁶ The bill is significant because it would eliminate the deference courts typically give to agency determinations of law.

⁶ Renée M. Landers & Kenneth R. Marcus, *Regulating the Regulator: What the Health Care Lawyer Needs to Know about Developments in Administrative law, Including the Impact of a Presidential Transaction*, AHLA ANNUAL MEETING (June 26, 2017).

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