

HOSPICE & PALLIATIVE CARE

For more than 20 years, our coast-to-coast legal team has monitored continually shifting hospice & palliative care laws. Our hospice law and palliative care attorneys are nationally recognized thought leaders who anticipate industry issues in order to clear pathways for nonprofit and for-profit clients large and small. Our hospice attorneys implement optimal client positioning on proactive compliance, audits and investigations, licensing, corporate transactions, litigation, and growth. Familiar with the legal, clinical, and operational demands facing hospice and palliative care organizations, our legal teams efficiently address brief questions by phone as well as providing experienced negotiation during complex multimillion-dollar government audits.

Our hospice & palliative care tools and services include:

Hospice Podcasts

Hospice Insights: The Law and Beyond

COVID-19 How-To Series

Governance Series

Hospice and the False Claims Act Series

Hospice Audit Series

Hospice Innovators

Hospice Labor and Employment Trends

Hospice Privacy Series



Our nonprofit mission-driven hospice operates in a very conscientious manner. Our Husch Blackwell hospice partners are attuned to that and often assist us in making affordable decisions that also meet our needs. We are confident in the attorneys who assist us and appreciate the team's knowledge of our organization and operations. They anticipate our needs and convey strategies in a meaningful way. They are outstandingly knowledgeable!

— David Fielding,
President and CEO,
Trustbridge —

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Perspectives on End of Life Care

Strategic Restructuring for the Future

To view other COVID-19 Resources related to Hospice & Palliative Care, visit our content library.

Hospice Medicare & Medicaid Audits

Our Hospice Audit team has led the way in the vigorous defense of hospices in payor audits for over a decade, with consistently successful outcomes. Whether the audit relates to Medicare, Medicaid, or Medicare Advantage programs, the Hospice Audit team has the experience and skill to obtain the best result possible. The Hospice Audit team has also developed a number of analytical tools, including charts, guides, tracking spreadsheets, and tip-sheets for use by hospice personnel. These tools, together with our attorneys' unrivaled experience in hospice audit, allows the Hospice Audit team to vigorously represent hospices in an efficient and cost-effective manner.

[View the Hospice Medicare Audits guide](#)

[View the Hospice Medicaid Audits guide](#)

[Listen to the Hospice Audit Series podcast series](#)

Affiliations, Joint Ventures, and Acquisitions

Our experienced and multidisciplinary hospice legal team collaborates to negotiate, draft, and review sophisticated and customized agreements that allow hospice and palliative care providers to conduct day-to-day business, adapt to regulations, and grow their organizations. Frequent services our hospice attorneys provide include:

[Mergers & acquisitions](#)

Joint ventures

Strategic alliances

Vendor and service agreements

Employee and physician agreements

Other resources:

Palliative Care and Beyond: Key Legal Considerations for Hospices Pursuing Upstream Revenue and Service Opportunities

Success Through Collaboration: Overview of Network Models for Hospices

Listen to the Strategic Restructuring for the Future podcast series

Palliative Care and Other Upstream Service Opportunities

Is your hospice organization considering expanding and diversifying your scope of services or revenue sources into non-hospice palliative care or other opportunities for getting further “upstream” in patients’ illnesses? Are you considering partnering or contracting with a Medicare Advantage plan or other managed care payor for hospice or upstream care services? Our talented and cross-disciplined team of attorneys can help you navigate the various legal considerations that arise from such opportunities, from working through licensure, staffing, and other compliance issues to negotiating payment and other contract terms. Recently, our hospice legal team achieved favorable results for a hospice client negotiating a Medicare Advantage Value-Based Insurance Design (VBID) contract with a large national payor, including a nearly 10 percent increase over the

originally proposed rates.

Palliative Care and Beyond: Key Legal Considerations for Hospices Pursuing Upstream Revenue and Service Opportunities

Success Through Collaboration: Overview of Network Models for Hospices

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Licensing & Regulatory

Our attorneys stay current with the shifting regulatory landscape and how hospice organizations can remain licensed, certified, enrolled, and in compliance at a local, state, and federal level. Our hospice attorneys work to proactively streamline operations:

Corporate governance

Quality Assessment and Performance Improvement (QAPI) programs

Medicare licensure, certification, and enrollment

Reimbursements, repayments, and disclosures

Risk identification and loss reduction

Litigation & Crisis Management

When unexpected claims destabilize ongoing business, our attorneys serve as fierce advocates and seasoned crisis managers. Our legal team navigates suspended payment, risk, and exposure while defending clients before local, state, and federal judicial, quasi-judicial, administrative, and legislative bodies regarding a wide range of issues including:

Whistleblower complaints

Anti-Kickback Statute (AKS)

Stark Law

False Claims Act (FCA)

Investigations & audits

Listen to the Hospice and the False Claims Act
Series podcast series

Representative Experience

Represented hospice in appeal of a Medicare audit that resulted in an extrapolated overpayment of more than \$12 million. Advocated for the hospice through the appeal process including a hearing before an administrative law judge. The extrapolation was thrown out and the ALJ returned a fully favorable ruling, resulting in a final overpayment amount of \$0.00.

Through administrative appeal process, decreased alleged \$8.6 million hospice client's overpayment identified during Medicare audit to less than 1 percent: \$77,000.

Appealed alleged overpayment finding during Medicare audit that placed nonprofit hospice client on brink of ceasing or selling operations, reducing overpayment by approximately \$20 million.

Successfully argued for hospice client that Unified Program Integrity Contractor (UPIC)'s \$25 million extrapolated overpayment was invalid. At first level of appeal, hospice

was vindicated leaving mere \$70,000 in dispute.

Negotiated a \$2 million settlement of a \$25 million UPIC audit securing the hospice's future and its service to the community.

Through advocacy, secured non-intervention decisions by government prosecutors and subsequent case dismissals in numerous qui-tam whistleblower lawsuits across the country.

Secured elimination of \$4.4 million extrapolated overpayment demand by UPIC. At reconsideration level of appeal, successfully argued that statistical extrapolation was fundamentally flawed and Qualified Independent Contractor (QIC) agreed that methodology was invalid.

Secured withdrawal of \$15 million extrapolated overpayment demand by UPIC. Prior to filing first-level redetermination appeal, successfully argued that payment demand must be rescinded due to fundamental flaws in statistical extrapolation. Achieving withdrawal at this early stage allowed client to avoid years of costly litigation and, due to appeal backlog, the threat that multimillion recoupment would begin before case was heard by administrative law judge (ALJ).

Secured withdrawal of \$12 million extrapolated UPIC audit finding before demand letter was issued. Almost immediately persuaded Medicare Administrative Contractor (MAC) and UPIC that fundamental errors were made in audit documentation review, rendering overpayment determinations and statistical extrapolation inaccurate. The

hospice was thus able to avoid costly and time-consuming appeal.

At first level of appeal, successfully overturned 84% of UPIC claim denials and secured removal of extrapolation, reducing \$7 million repayment to nearly \$96,000.

Secured removal of extrapolation decision for hospice resulting in reduction of overpayment from approximately \$6 million to approximately \$100,000.

Successfully defended one of the first federal hospice Medicaid Integrity Contractor (MIC) audits by obtaining withdrawal of nearly entire \$3 million overpayment.

Coordinated with local counsel to challenge State's ability to recoup Medicaid nursing home room and board dollars on basis that Medicare hospice services were alleged to have not been medically necessary.

Received favorable decisions from ALJ on all beneficiary denials appealed in extrapolated sample, reducing overpayment from approximately \$4.6 million to just under \$40,000.

Successfully defended state Medicaid audit seeking to recover \$6+ million in nursing home room and board pass-thru payments. After initial response, recoupment was reduced to ~\$82,000.