

## INDUSTRY

# Healthcare & Health Services



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## OVERVIEW

## HEALTHCARE & HEALTH SERVICES

Both for-profit and tax-exempt healthcare providers and organizations rely on the industry team at Bowditch & Dewey for a broad range of services, delivered in an effective and practical manner. Thanks to years of experience with clients throughout Massachusetts and elsewhere, we understand the need for sound, prompt and practical legal advice across a wide range of provider types and involving a wide range of needs affecting our clients, including:

- Medicare/Medicaid participation, enrollment and reimbursement
- Employment, joint venture, ancillary services and other agreements
- Anti-kickback and self-referral counseling and transaction structuring
- Medical office construction, zoning, leasing and related matters
- Compliance program development and internal investigations
- Protection of intellectual property, including trademarks, copyrights, patents and trade secrets
- Physician discipline/licensure/peer review representation
- Health information privacy and security issues
- Risk management and dispute resolution processes
- Affiliations, acquisitions, mergers and consolidations of institutional providers
- Bond financing for exempt health care institutions
- Executive compensation and employee benefits
- Ambulatory surgery and imaging center formation and operations
- Physician recruitment arrangements
- Third-party payor coverage and reimbursement disputes

Our clients include physician and dental groups, acute and specialty hospitals and integrated healthcare systems, long term care facilities, ancillary services providers, medical device manufacturers, human services agencies, community health centers, home health agencies, assisted living facilities and continuing care retirement communities and medical professional societies.

We have general counsel relationships with a number of clients and, for these clients, we provide a broad, integrated range of legal specialties at Bowditch. Many members of our industry team have been in-house counsel at integrated delivery systems, including hospitals, long-term care facilities and affiliated medical practices.

## EXPERIENCE

### Helping adapt to changes in the Massachusetts Medicaid program

We have been on the front lines of reforms to the Medicaid program in Massachusetts, helping healthcare clients constantly adjust and comply with fast-paced changes. For example, we are forming Accountable Care Organizations for physician practices and hospitals, which are required to provide the whole range of services, including behavioral health. When this process involves community partners, we've assisted several community partners negotiate collaborative agreements. Our client is awaiting selection and finalizing of a contract, having created an entity and made its proposal to MassHealth.

### Resolving a favorable withdrawal from a professional healthcare services partnership

A member of a health care practice wasn't getting along with the other two members of their LLC, based on money and personality issues. We filed a pre-emptive suit to stop her partners from forcing her out. That allowed time for us to negotiate a settlement favorable to our client, which included withdrawing from the LLC, resolving compensation issues and coming to an agreement on non-compete terms.

### Breach of Contract case knocked out on a Motion to Dismiss

We were called upon to represent one of our many healthcare clients when a former employee sued, claiming that her termination violated her contractual right to progressive discipline under the employee handbook. In a 22-page decision, the court completely agreed with our motion that the handbook did not constitute a contract with the plaintiff and, even if it did, the healthcare provider did not breach its terms, as the handbook did not guarantee that progressive discipline would be followed in every case.

### Successfully closing of the sale of business assets

A medical professional was planning to retire and needed help disposing of certain business assets. We assisted the client with the sale of his business and real estate, including crafting an agreement with the new owner that allowed our client to continue to work during a transition period.

### Helping finance a \$12 million neighborhood health services facility

We were bond counsel on a recent Boston-area health and elder services project for a nonprofit developer, using the bonds to make a leveraged loan into the financing structure along with New Market Tax Credits. The neighborhood has now been provided with a spacious, modern facility that can accommodate the elderly residents of the neighborhood along with much-needed administrative support for the agency providing the services.

### Funding the large-scale development of community health centers

We have represented a number of non-profit community health centers located in urban areas of Massachusetts in the health centers' efforts to replace or upgrade their existing facilities. Working with the clients, we put together multiple layers of funding comprising federal grants, bond funding and various tax credits, including New Market Tax Credits. We dealt with complicated real estate, regulatory and tax issues while keeping in forefront the clients' mission to serve the community.

### OTHER EXPERIENCE

- Community health centers with leasing, zoning, permitting and property acquisition, corporate compliance and employment issues, including defense of discrimination claims and employment-related agreements
- Community health centers with tax-exempt bond financing; Recent projects include Family Health Center of Worcester, Mattapan Community Health Center, Lynn Community Health Center, Lynn Caring Health Center Springfield, Edward M. Kennedy Community Health Center
- Behavioral healthcare organization with zoning and permitting, construction litigation and employment advice, including defense of discrimination claims, employment authorization and employment-related agreements
- Regional community hospital with strategies for hiring foreign physicians
- Acute, full-service, unaffiliated community hospital with ERISA, defense of discrimination claims, employment-related agreements and labor negotiations with the Massachusetts Nursing Association
- Behavioral healthcare organization with ongoing employment authorizations and in matters before the National Labor Relations Board
- Medical school with property acquisition, disposition and leasing
- Developmental disabilities service organization in defense of discrimination claims, personnel advice and employment-related agreements
- Medical school with the development of their campus, including consultation on campus master plan and representation before the Planning Board
- Continuing care retirement community with labor and employment issues, real estate permitting, occupancy agreements, tax issues, corporate and regulatory advice
- Hospitals with the termination of defined pension benefit plans and corrections to 40B and 401K retirement plans
- Nursing home operators with the financing of nursing home facilities and an affordable housing project
- Hospitals and community health centers with executive compensation agreements