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TOP HEALTH CARE LAWYERS 2020



Gina M. Cavalier

Cavalier is a partner at King & Spalding LLP, where she centers her practice on health care fraud and abuse and compliance issues for the life sciences industry. She is a member of the firm's FDA and health care practices. Her clients include pharmaceutical and medical device manufacturers, suppliers, providers and group purchasing organizations.

She is primary outside counsel for Karl Storz Endoscopy-America Inc., the El Segundo-based U.S. subsidiary of a German medical device manufacturer. She advises the company on a range of health care compliance, fraud and abuse and data privacy issues. Her counsel aids the client in lowering risk amid the stringent regulations of the Anti-Kickback Statute, HIPAA, the federal Sunshine Act and parallel state laws.

Her work persists amid the altered world of the coronavirus pandemic.

"Everything from handshaking to how-do-you-do is changing," she said in early April. "Here in L.A. I feel like they turn up the intensity of rules and restrictions every day."

Her firm has been working remotely, with offices shuttered internationally and in the U.S.

"Diligence matters and most new business has been on hold as we handle the day by day crises and as our clients adjust their business strategies."

Working from home, Cavalier said, most in-firm and client interactions are conducted via WebEx or phone. "On balance, things seem to be working better than expected. I focus of fraud and abuse and compliance, which aren't much affected by a pandemic. I bring that perspective to advising clients on crisis management now."

A common issue is the emerging practice of telehealth, in which patients and caregivers communicate remotely. The U.S. Department of Health and Human Services' office of civil rights, which enforces HIPAA, the Health Insurance Portability and Accountability Act, recently issued a notification of enforcement discretion for telehealth communications. That will ease use of Facebook, Skype and other non-secure platforms in transmitting individuals' medical information, Cavalier said.

And regarding the Anti-Kickback Statute, which prohibits manufacturers from providing free products to health care organizations, Cavalier said she tailors her advice to the practicalities of the crisis.

"It's an intent-based statute," she said. "So we address the risk of distributing for free items that may prevent the spread of the disease. We look at charitable intent behind providing PPE in a crisis like this that might lower the risk of violating the statute. We think about the purpose—is it directly related to



FIRM: KING & SPALDING LLP

CITY: LOS ANGELES

PRACTICE: FRAUD, ABUSE,
COMPLIANCE

helping in the emergency or with an eye toward marketing and future business? We conduct fact-specific assessments for clients."

The isolation and uncertainty can be challenging for lawyers and their clients, Cavalier has found.

"We're trying to be sensitive to that," she said. "Everything else yields to that."

—John Roemer