

Top Ten Legal Issues of 2017

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FORTUNE MAGAZINE'S
100 BEST COMPANIES
TO WORK FOR
EIGHT YEARS IN A ROW



60th 
LARGEST LAW FIRM BY
NATIONAL LAW JOURNAL IN 2016

MORE THAN
200
ATTORNEYS
IN 10 STATES
DEDICATED TO THE HEALTH CARE INDUSTRY



24 
OFFICES ACROSS THE SOUTHEAST,
TEXAS AND WASHINGTON, D.C.

RANKED AS ONE OF THE
LARGEST
HEALTHCARE
LAW FIRMS
BY MODERN HEALTHCARE




5 FORMER PRESIDENTS
OF AHLA

HANDLED TRANSACTIONS IN ALL
 **50** STATES

RANKED AS A

"TOP 10 FIRM"
FOR HEALTH LAW BY AHLA

 **16**
ATTORNEYS
RECOGNIZED
BY CHAMBERS
USA

ACHIEVED A
SCORE OF
100
IN THE 
HUMAN RIGHTS
CAMPAIGN'S
CORPORATE
EQUALITY INDEX

 
HEALTH CARE PRACTICE
RANKED NATIONALLY IN
CHAMBERS USA

 **31** ATTORNEYS
SELECTED TO
BEST LAWYERS

11 ATTORNEYS LISTED IN
SUPER LAWYERS
PLUS **3** RISING
STARS 

MORE THAN
15
ATTORNEYS
HAVE WORKED FOR
HHS, CMS, DOJ,
AND OTHER
FEDERAL AGENCIES

Top Ten Issues

- Goals
 - Purpose of the session is to introduce top legal issues the addiction treatment field is facing today.
 - Goal is also to identify potential future issues.



Methodology



Importance - Statistics

- The Mental Health and Substance Abuse Centers Industry is in growth stage.
- 50% of the industry \$14 billion revenue goes towards the treatment of substance abuse of drugs and alcohol.
- Over 21 million people aged 12 and older required treatment for illicit drug or alcohol abuse in 2014
- Moderate consolidation over next several years with approximately 10,000 providers nationwide;
- Mental health and substance use disorders are the leading causes of disease burden in the U.S.

Importance - Governmental Focus



Recent mortality and morbidity trends

Several recent studies and news reports have highlighted aspects of increasing mortality and morbidity among some Americans (Arias 2016, Case and Deaton 2015, Montez et al. 2016). While researchers have applied diverse methods and reported various aspects of the trend, findings can be grouped into two categories: increases in mortality in groups of Whites, especially women, and decreases in life expectancy for residents of certain geographic areas.

Over the last century, the United States has experienced generally consistent declines in the mortality rate. However, there has recently been an increase in mortality among the middle-aged non-Hispanic White population (Kochanek et al. 2015). Economists Case and Deaton found that the increase is unique to middle-aged (45–54 years old) non-Hispanic Whites in the United States; a similar mortality rate increase is not seen in other industrialized countries or in the non-Hispanic African American or Hispanic population of this age group (Case and Deaton 2015). Case and Deaton note that three causes of death have dramatically increased among this group in the last decade: suicides, intentional and unintentional poisonings, and chronic liver disease. Additionally, increases in midlife mortality in this group are paralleled by increases in self-reported midlife morbidity and troubling health indicators and behaviors such as increased alcohol consumption, smoking, and obesity. Case and Deaton's findings indicate that the increase in reports of poor health by this group has been matched by increasing reports of physical pain and psychological distress.

As with any population-level trend, the causes of increased midlife morbidity and mortality among non-Hispanic Whites are difficult to identify. A recent study found that varying inequalities in women's mortality across states may be partially explained by macro-level socioeconomic and political factors—for example, policies that shape access to health care, use of tobacco, availability of affordable housing, children's health care, and financial safety nets (Montez et al. 2016). Some researchers point to the availability of opioid drugs as a possible source of rising mortality rates. Increased reports of pain combined with the increased availability of opioid prescriptions for pain that began in the late 1990s have been widely noted, as well as the associated mortality (Rudd et al. 2016). Studies have also found that recent restrictions of opioid prescriptions may lead to unintended negative consequences such as increased use of heroin (Compton et al. 2016). There is concern that those affected by opioid and substance use in midlife include current Medicare beneficiaries under 65 and others who will age into Medicare in worse health than current beneficiaries. Researchers have found that patients with a diagnosed opioid dependency are high utilizers of health care services, including office visits, lab tests, and related treatments (FAIR Health 2016). However, this utilization may be related to the underlying conditions for which opioids were used as much as the consequences of opioid abuse or related effects. Addiction is hard to treat and chronic pain is challenging to control, and these conditions appear to be potential problems among the next generation of Medicare beneficiaries. ■

FACING ADDICTION IN AMERICA

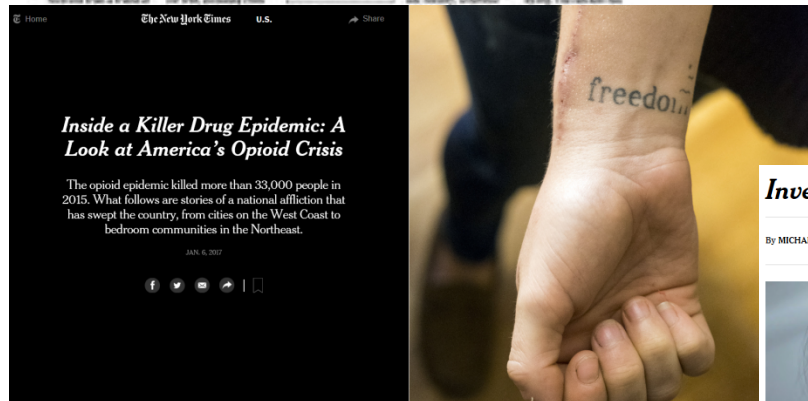
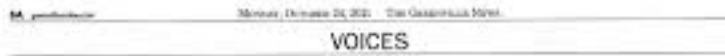
The Surgeon General's Report on Alcohol, Drugs, and Health

U.S. Department of Health & Human Services

KEY FINDINGS: HEALTH CARE SYSTEMS AND SUBSTANCE USE DISORDERS

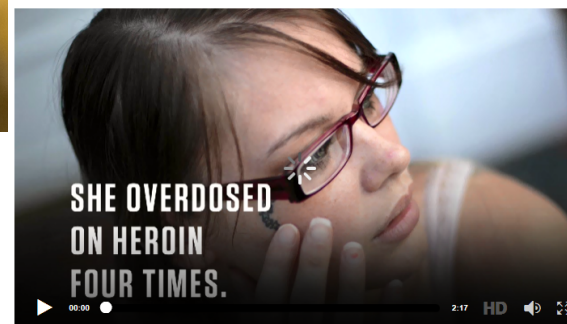
- Well-supported scientific evidence shows that the traditional separation of substance use disorder treatment and mental health services from mainstream health care has created obstacles to successful care coordination. Efforts are needed to support integrating screening, assessments, interventions, use of medications, and care coordination between general health systems and specialty substance use disorder treatment programs or services.
- Supported scientific evidence indicates that closer integration of substance use-related services in mainstream health care systems will have value to both systems. Substance use disorders are medical conditions and their treatment has impacts on and is impacted by other mental and physical health conditions. Integration can help address health disparities, reduce health care costs for both patients and family members, and improve general health outcomes.
- Supported scientific evidence indicates that individuals with substance use disorders often access the health care system for reasons other than their substance use disorder. Many do not seek specialty treatment but they are over-represented in many general health care settings.
- Promising scientific evidence suggests that integrating care for substance use disorders into mainstream health care can increase the quality, effectiveness, and efficiency of health care. Many of the health home and chronic care model practices now used by mainstream health care to manage other diseases could be extended to include the management of substance use disorders.
- Insurance coverage for substance use disorder services is becoming more robust as a result of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) and the Affordable Care Act. The Affordable Care Act also requires non-grandfathered individual and small group market plans to cover services to prevent and treat substance use disorders.
- Health care delivery organizations, such as health homes and accountable care organizations (ACOs), are being developed to better integrate care. The roles of existing care delivery organizations, such as community health centers, are also being expanded to meet the demands of integrated care for substance use disorder prevention, treatment, and recovery.
- Use of Health IT is expanding to support greater communication and collaboration among providers, fostering better integrated and collaborative care, while at the same time protecting patient privacy. It also has the potential for expanding access to care, extending the workforce, improving care coordination, reaching individuals who are resistant to engaging in traditional treatment settings, and providing outcomes and recovery monitoring.
- Supported evidence indicates that one fundamental way to address racial and ethnic disparities in health care is to increase the number of people who have health insurance coverage.
- Well-supported evidence shows that the current substance use disorder workforce does not have the capacity to meet the existing need for integrated health care, and the current general health care workforce is undertrained to deal with substance use-related problems. Health care now requires a new, larger, more diverse workforce with the skills to prevent, identify, and treat substance use disorders, providing "personalized care" through integrated care delivery.

Importance – Media Coverage



Investigating the Heroin and Prescription Opioid Epidemic: A Lesson Plan

By MICHAEL CONCHAR and CAROLINE CROSSON GILPIN MAY 4, 2017



After surviving four heroin overdoses, Heather Wetzel hopes she can stay clean for her daughter. BY RETRO REPORT on November 22, 2015. Watch in Times Video

Current Events

- Analyzing the Relationship Between the Press and the President: A Lesson Plan MAY 11
- 10 Ways to Teach With The New York Times Today APR 28
- Examining How the Syrian Crisis Has Shaped the Lives of Young Refugees: A Guest Lesson Plan APR 26
- Echoes of History? A Lesson Plan About the Recent Rise of Europe's Far-Right Parties APR 19
- Getting to Know NYTimes.com for the Classroom: A Scavenger Hunt, Webinars and More MAR 30

See More »

Note: Since this lesson deals with a sensitive topic and some videos might

The Top Ten

- 1. NIMBY
- 1. HIPAA
- 1. Part 2
- 1. Parity and Payment
- 1. Marketing
- 1. Co-Insurance
- 1. Labs
- 1. Corporate Structuring
- 1. Telemedicine
- 1. Staff Issues

NIMBY



HIPAA

Texas health system settles potential HIPAA disclosure violations

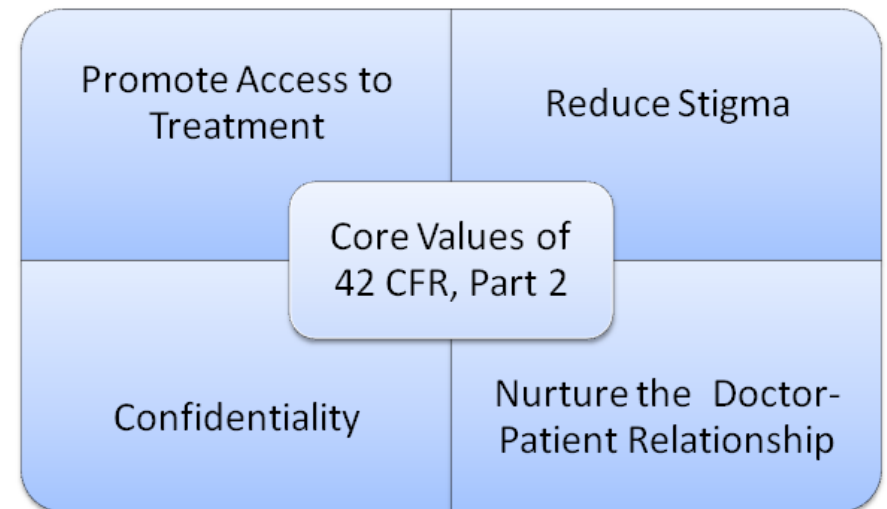
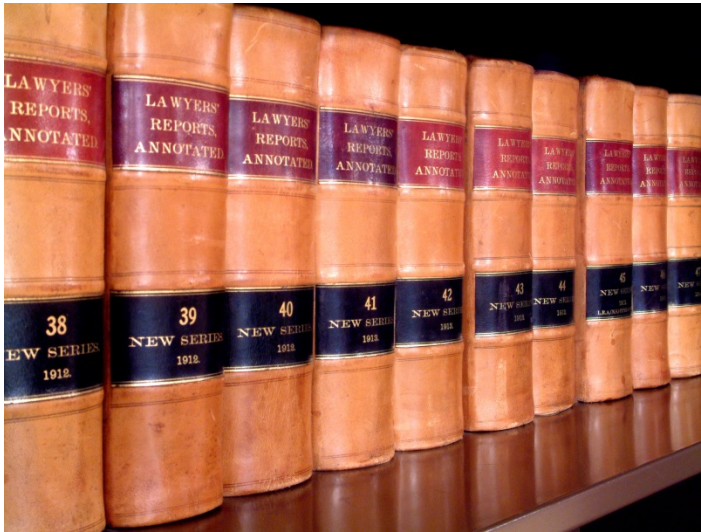
May 10, 2017, 12:00 pm by US Department of Health and Human Services

Memorial Hermann Health System (MHHS) has agreed to pay \$2.4 million to the U.S. Department of Health and Human Services (HHS) and adopt a comprehensive corrective action plan to settle

potential violations of the Health Insurance Accountability Act (HIPAA) Privacy Rule. The health system located in Southeast Texas provides primary and specialty services in the Greater

- **CardioNet---failings found after theft of unencrypted laptop** (announced April 24th). CardioNet agreed to pay \$2.5 million to resolve HHS OCR claims relating to the theft of an unencrypted laptop containing the electronic PHI of 1,391 individuals from a parked vehicle outside an employee's home in January 2012. HHS OCR faulted CardioNet for "insufficient risk analysis and risk management processes" as well as having policies for compliance with the HIPAA security rule that were in draft form and had not been implemented. HHS OCR also alleged that CardioNet was "unable to produce any final policies or procedures regarding the implementation of safeguards for electronic PHI, including those for mobile devices."

PART 2



Parity and Payment

- MHPA of 1996
- MHPAEA of 2008
- PPACA of 2010
- CARA of 2016
- AHCA of 2017

Fraud and Abuse - Marketing

Feds Allege Mass Forest Park Medical Center Kickback Scheme; 21 Indicted

12/1/2016 | by Matt Goodman | 10 Comments | [Share Post](#)



Twenty-One Indicted in the Forest Park Medical Center Health Care Fraud

BY CHRISTIAN MCPHATE

TUESDAY, DECEMBER 6, 2016 AT 4 A.M.



Execs, physicians at doc-owned luxury hospital chain indicted in alleged kickback scheme

By Shelby Livingston | December 6, 2016



The Shocking Collapse of Forest Park Medical Center

After growing rapidly, how did Dallas' go-go luxury physician-owned hospital chain spiral so quickly into chaos?

ILLUSTRATION BY BRIAN AJMAR

Dallas doctor and Forest Park co-founder guilty in \$10M medical fraud scheme

Mar 5, 2016, 2:26pm CST Updated Mar 6, 2016, 9:32pm CST

21 Forest Park Medical Center Employees Indicted In Bribery Scandal

December 1, 2016 3:39 PM By L.P. Phillips

January 15, 2015

Physician-Owned Forest Park Medical Center to Pay \$215,000 to Resolve Kickback Allegations Under Civil Settlement with United States

Fraud and Abuse - Co-Insurance

- Cigna v. Humble Surgical Hospital (June 2016)
- Forest Park Medical Center Indictment (Nov. 2016)
- Aetna v. Humble Surgical Hospital (Dec. 2016)

Fraud and Abuse - Labs

- US. v. Salvatore Conte (2016)
- BCBS of Mississippi v. Sharkey-Issaquena Community Hospital (May 2017)

Corporate Structuring and Investment



Telemedicine

- State laws
- Permitted modalities
- Licensure requirements
- Practice limitations.

Staffing



Comments & Questions

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