



Richard Y. Cheng

Partner

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Richard Y. Cheng's practice focuses on corporate transactions, regulatory, compliance matters and administrative appeals. He has an extensive healthcare law practice, with particular concentration representing post-acute care providers (e.g. nursing facilities, hospices, home health care agencies, hospices, rehabilitation providers), community hospitals, physician groups, ancillary providers, retail medicine providers, management service organizations (MSOs), dental service organizations (DSOs) regulated products providers (e.g. hemp based businesses), private equity groups and investors.

Richard has considerable experience representing clients involving Stark Law, Anti-Kickback Statute, FCA, EKRA, HIPAA, HITECH Act, Civil Monetary Penalties (CMPs), state based healthcare regulations, Medicare-related transactions (e.g. change of ownership) licensure surveys, formation of MSOs and DSOs, managed care organization (MCO) payment matters, Medicaid contracting and Medicare appeals before administrative law judges.

Richard formerly served as vice president and general counsel at two separate healthcare companies, where he assisted with change of ownership transactions, counseled on healthcare operational matters and worked closely with outside counsel managing multiple litigation matters. He also created the medical appeals departments at both healthcare organizations, overseeing multiple staff members that he trained, resulting in the successful recover of millions of dollars in governmental and private healthcare insurance claims. Early in his career, Richard worked as a licensed occupational therapist, served as an adjunct faculty at multiple universities and lobbied in Washington D.C. through the American Occupational Therapy Association.

In addition to his traditional healthcare practice, Richard developed a cannabis regulatory and corporate practice starting in late 2013. He formerly served as outside general counsel to the Texas Cannabis Industry Association, co-authored a FDA primer in preparation for the 2019 FDA public hearing on CBD products and currently serve as an advisory board member to a hemp pharmaceutical development company. Richard represents and regularly advises a broad base of cannabis related clients, including, physicians, private equity groups investing in the cannabis industry, cultivators, processors, wholesalers, retailers, distribution centers and ancillary providers (e.g. testing labs, biomass brokerage firms, etc.) in regulatory and corporate matters.

RELATED SERVICES

- Corporate
- Data Protection, Privacy and Security
- FDA
- White Collar and Corporate Crime

RELATED SECTORS

- Healthcare
- Life Sciences

LANGUAGES SPOKEN

Chinese (Mandarin)
English

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- Chinese (Mandarin)
- English

EXPERIENCE

HEALTHCARE REPRESENTATION

- Advised a private equity group in the acquisition of a home infusion services provider involving a non-profit healthcare organization (NPHO) along with the coordination of a management service structure
- Advised in a private sale of a third party administration company providing health insurance coverage
- Represent a behavioral care management company with coordination of behavioral health services with physician groups
- Represent a national provider of Applied Behavior Analysis (ABA) and therapy services on healthcare regulations, compliance and corporate expansion
- Advised multiple assisted living facilities and skilled nursing facilities on compliance of national emergency guidelines during COVID-19
- Advised a developer of personal protective equipment on healthcare policies and national public health response strategies for development of a new product line
- Represented a physician group and private investors on the development and expansion of telemedicine services for indigent OBGYN care
- Represent home health care agencies on regulations associated with use of telehealth and telemonitoring services
- Represented physicians and investors on management and divesting assets while converting free standing emergency facilities into hospital outpatient departments
- Represent private equity groups on healthcare regulatory structures and compliance related issues for house call physician services provider
- Represent pharmacists and ancillary healthcare providers during FTC investigations
- Represent pediatric home health agencies with health plan in-network terminations and the administrative appeals process
- Represent investors and physicians on healthcare regulatory issues with investing and purchases of ambulatory surgical centers (ASCs)
- Regularly represent investors and healthcare providers with initial stages of FBI, FTC, OIG and state government agency investigations
- Represented several skilled nursing facility (SNF) providers, including the largest Texas based SNF, in multiple healthcare regulatory matters, change of ownerships and corporate transactions
- Represented a community hospital system in a imaging center acquisition, while advising on multiple Stark Law and Anti-Kickback Statute (AKS) concerns
- Represented several assisted living facility (ALF) providers, including a large national ALF provider, in a license change of ownership transaction in Minnesota
- Advised a private equity group in the acquisition of a topical dermatology research and manufacturing company
- Advised a continuing care retirement center (CCRC) in the sale of multiple provider units - skilled nursing facility, assisted living facility and independent living facility
- Represented and advised a bond finance company on assisted living facility change of ownership matters
- Advised on the healthcare regulatory issues and development of a home health care and private duty care franchise model
- Advised a private equity group in the acquisition of a national in vitro fertility lab and physician practices
- Represented a private equity group in a Series A finance of a telemedicine provider
- Represented a healthcare facility developer and management company in the acquisition of a long-term acute care hospital system
- Represented multiple investment groups on the acquisition and operations of neurosurgery centers, radiation surgery centers

and ambulatory surgical centers, particularly on Stark and Anti-Kickback Statute issues

- Represented multiple representation and warranty policy providers on multiple healthcare regulatory due diligence matters
- Represented providers and private equity groups on healthcare regulatory issues associated with operations, acquisitions and joint ventures of clinical trial groups
- Represented numerous physicians, therapists and nursing before its respective professional licensing boards, including the Texas Medical Board, Texas Board of Nursing and Texas Board of Physical Therapy Examiners and Texas Board of Occupational Therapy Examiners
- Advised on the sale of a healthcare solutions and benefits company
- Represented a wound care and therapy provider on regulatory and corporate matters
- Represented one of the largest post-acute care providers in a multimillion-dollar set of Medicare Zone Program Integrity Contractor audits by successfully overturning a Qualified Independent Contractor (QIC) decision at the Administrative Law Judge (ALJ) appeal level
- Represented numerous home healthcare agencies and hospice providers, among them a Dallas -based national provider, in a variety of regulatory and compliance matters involving daily operations and change of ownership transactions
- Serves as the primary health care regulatory and corporate counsel for multiple management service organizations (MSOs), including a parent company of multiple MSOs throughout the country
- Represented investors in launching and operating a clinical integrated network (CIN)
- Represented physician sellers of a portfolio of urgent care centers while advising on Stark and AKS disclosures and representations
- Represented investors and management company of free standing emergency rooms (ERs)
- Serves as co-counsel and advises on healthcare regulatory and compliance issues in multiple healthcare fraud and abuse investigation and litigation matters initiated by the Department of Health & Human Services (HHS) Office of Inspector General (OIG) and Department of Justice (DOJ)
- Represented and advised clinical laboratories on marketing operations to comply with Eliminating Kickbacks in Recovery Act of 2018 (EKRA)
- Represents numerous physician groups and regularly counsels on corporate practice of medicine, Stark Law, False Claims Act (FCA), AKS and Texas Patient Non-Solicitation Act matters during investment transactions, corporate structuring and arranging compensation arrangements
- Represented a podiatry practice on a HIPAA and HITECH Act audit to determine whether proper security safeguards, HIPAA policies and procedures and training has been implemented
- Represented several home healthcare agencies and hospices in appealing deficiencies cited through a state government agency survey
- Represented multiple wholesale and retail pharmacies, including a national pharmacy provider, on a variety of healthcare regulatory, compliance and state licensing issues
- Represented multiple dental practices when divesting assets to dental service organizations (DSOs) and advising on Texas corporate practice of dentistry issues
- Represented a mobile optometry service provider in an effort to appeal an adverse Medicare certification action
- Represented several long-term-care therapy providers in healthcare regulatory matters and successfully covered millions of dollars in Medicare based audits through the administrative appeal process
- Represented a multi-location medical spa provider in negotiating medical directorships and other professional service relationships
- Represented and advised one of the largest national massage and wellness providers on maintaining compliance with privacy and security of protected health information
- Represented several durable medical equipment (DME) providers on HIPAA related and healthcare fraud and abuse matters (eg, FCA and AKS)

CANNABIS LAW

- Represented investors and industry businesses on importation and exportation of hemp products and advise on APHIS and

CBP regulations

- Represented one of the largest global cannabis companies on preparing for intellectual property filings and creating a defense on said filing
- Represented and advised on insurance coverage related issues for interstate hemp transportation and the insurance risks for violating USDA and state guidelines
- Represented a provider of software designed to improve manufacturing processes on cannabis regulatory issues
- Represented and counseled multiple hemp CBD retail businesses in regulatory and corporate matters
- Represented a wholesaler of hemp CBD wellness products on regulatory issues associated with physician compensation
- Advised a fortune 500 company on hemp CBD regulatory matter in the development of a new product line
- Represented and advise a company on FDA related issues associated with labeling, online marketing and shipping of hemp CBD products to Asia
- Represent a hemp CBD cosmetic company on regulatory issues associated with online marketing and product development
- Represent multiple manufacturers of hemp CBD wellness products regarding online marketing and regulatory issues
- Represented a manufacturer of hemp based CBD products by advising the manufacturer on Controlled Substances Act (CSA), the 2018 Farm Bill and applicable state law
- Represented investors and cannabis producers on transportation and interstate commerce of hemp isolates and industrial hemp products
- Represented and advised multiple clinical laboratories on the legal issues associated with testing and examining cannabidiol content of hemp CBD products
- Represented investors in the acquisition of a cannabis extraction company in California
- Advised on the applicability of the CSA and the 2018 Farm Bill related to the development of synthetic hemp seeds
- Represented a Texas-based applicant under the Texas Compassionate Use Program cannabis on multiple licensing, corporate and regulatory matters related to the Texas Compassionate Use Act
- Represented on the Texas Cannabis Industry Association by issuing a legal position to the Texas Department of State Health Services on the legal exemptions under the CSA and other federal law related to CBD products in retail businesses
- Served as outside general counsel for the Texas Cannabis Industry Association

CREDENTIALS

Admissions

- Minnesota
- Texas

Recognitions

- *D CEO Magazine* & Association of Corporate Counsel – Best Corporate Counsel Finalist, Solo Category, 2011-2012
- *D Magazine* – Best Lawyers in Dallas, 2015, 2017-2019
- *Dallas Business Journal* – Best Corporate Counsel Rising Star Award, 2011
- National Diversity Council – Legal Diversity Champion Award, 2012
- *Texas Lawyer magazine* – Featured General Counsel, 2012
- *Texas Occupational Therapy Association*, Distinguished Service Award, 2011-2012
- Texas Tech University Health Sciences Center – Distinguished Alumni Award, 2010
- Thomson Reuters – *Texas Rising Stars*, 2015-2017
- *DataBird Research Journal* – Top 250 Cannabis Expert, 2018

Education

- J.D., Nova Southeastern University Shepard Broad Law Center
- M.B.A., University of Memphis
- Texas Tech University Health Sciences Center, B.S.O.T./M.O.T.
- University of Texas Health Science Center at Houston, Graduate Certificate of Public Health

Courts

- United States District Court for the District of Minnesota
- United States District Court for the Northern District of Texas

Memberships

- American Bar Association, Health Law Section (Vice Chair of Post-Acute Care Continuum Task Force)
- American College of Health Care Executives, North Texas Chapter
- American Health Lawyers Association, Post Acute/Long Term Services Section
- Collin County Bar Association, Corporate Counsel Section
- Dallas Asian-American Bar Association (Board of Directors, 2013-2015)
- Dallas Association of Young Lawyers Foundation (Life Fellow; Leadership Class Selected Member, 2011)
- Dallas Bar Association, Health Law Section
- Frisco Chamber of Commerce (Leadership Class Member, 2015)
- Texas Healthcare Advisory Council (Board of Director)
- Health Care Compliance Association
- Helping Restore Ability (Board of Directors)
- National Asian Pacific American Bar Association
- National Cannabis Bar Association
- State Bar of Texas, Health Law Section (Diversity in the Profession Committee; 2016 Texas Minority Counsel Program Steering Committee)
- Texas Assisted Living Association (Public Policy Committee Member)
- Texas Association of Home Care & Hospice (Governmental Affairs Committee)

Additional Certification

- Richard is a Certified Healthcare Compliance (CHC) professional with the Certification Compliance Board (CCB)

INSIGHTS

Publications

Economic relief for hemp farmers in new round of funding in response to COVID-19

5 May 2020

The new stimulus package is a more apparent green light for hemp businesses to obtain financial aid.

COVID-19 emergency declaration allows Centers for Medicare & Medicaid Services to issue 1135 waivers, 1915(c) waivers and changes to survey and audit processes

6 April 2020

Issued in a public health emergency, the waivers help ensure healthcare items and services are available for individuals enrolled in Social Security Act programs.

CARES Act may offer relief for medical practices, but raises questions for private equity-backed practice management companies

3 April 2020

Medical practices and practice management companies are urged to consider options under the CARES Act.

COVID-19: Financial relief programs for hemp and hemp-related businesses

3 April 2020

What the relief bill may mean for the cannabis industry.

- "HealthTech: Law and Regulation – Ch. 14: Telemedicine: opportunities and challenges – a US perspective," *Edward Elgar*, October 2020
 - "CMS Issues Best Practices Toolkit for Nursing Facilities in Response To COVID-19," *American Bar Association*, May 14, 2020
 - "How the CARES Act Could Affect Nursing Facility Operators," *McKnight's Long-term care news*, April 15, 2020
 - "CMS and CDC Guidance on COVID-19 for Post-Acute and Long Term Care," *American Health Law Association*, March 18, 2020
 - "3 Risk Categories for Providers Whose Patients Use Cannabis," *HomeCare Magazine*, March 2, 2020
 - "Telehealth in SNFs – A proposal for MA plans," *McKnight's-Long Term Care News*, January 21, 2019
 - "Managing Whistleblowers and Whistleblower Cases," *McKnight's-Long Term Care News*, December 3, 2018
 - "Due Diligence in Distressed Community Hospitals," *The Bankruptcy Strategist*, August 1, 2018
 - "Office of Inspector General Voluntary Disclosures — Should I or Shouldn't I?" *McKnight's Long-Term Care News*, May 16, 2018
 - "How to Conduct an Effective Internal Investigation," *HomeCare Magazine*, November 1, 2017
 - "Marketing Limitations in Health Care," *HomeCare Magazine*, September 5, 2017
 - "Why Long Term Care Operators Should Care About Anti-Kickback Statute Trends," *McKnight's Long Term Care News*, February 12, 2016
 - "Trump Administration and the Future of Medicare Certification," *The College Bulletin*, Texas Bar College
 - "Post-Acute Care Provider Antidiscrimination Obligations," *American Health Lawyers Association Post-Acute and Long Term Services Advisor*, Vol. 18, Issue 3, October 15, 2015
 - "Electronic Health Records: What to Expect in 2016," *Texas Chiropractic Board Report* newsletter, Volume II, Issue 6, October 1, 2015
 - "Recognizing and Managing Acuity Creep in Assisted Living Facilities," *Inside TALA*, September 5, 2015
 - "Audits Conducted by Medicare," *Dallas Bar Association's Headnotes*, July 1, 2015
 - "Preparing for a Healthcare Mediation," *TAHC&H Perspective*, May 11, 2015
 - "The Legal and Operational Guide for Free Medical Clinics," The American Health Lawyers Association, the American Medical Association Foundation and the National Association of Free and Charitable Clinics, 2015
 - "Trolling for Medical Golden Nuggets," *Dallas County Medical Journal*, Vol. 101, No. 11
 - "Stark Law Concerns with Skilled Nursing Facility Medical Directors," *Texas Health Care Association*, January 9, 2015
 - "Breaking Down Ebola Concerns," *McKnight's Long Term Care News*, October 24, 2014
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- "Strategies to Combat Common Deficiencies in Assisted Living Facilities" *Inside TALA*, May 19, 2014

Events

- Moderator, *Dallas Asian American Bar Association Connections: In-House Counsel Virtual Roundtable Part 2*, Online Webinar, May 21, 2020
- Moderator, *Dallas Asian American Bar Association Connections: In-House Counsel Virtual Roundtable*, Online Webinar, April 9, 2020.
- *The Past, the Present, the Future regarding Hemp, Medical and Recreational Cannabis, and the Myriad of Issues that Attorneys Should be Aware*, American Health Lawyers Association's Physicians and Hospitals Law Institute, Phoenix, Arizona, February 10, 2020
- *Legal Q&A Panel Discussion*, Texas Hemp Convention, Dallas, Texas, January 29, 2020
- *Law Regarding Cannabis and Hemp*, Taos Healthcare Roundtable, Taos, New Mexico, January 23, 2020
- *Cannabis Products' Impact on Labor & Employment*, Tarrant County Bar Association, Fort Worth, Texas, December 17, 2019
- *Impact of Cannabis on Long Term Care*, Texas Assisted Living Association Regional Meeting, Houston, Texas, October 22, 2019
- *Cannabis Law Update*, Dallas Area Paralegal Association, Dallas, Texas, October 1, 2019
- *Interplay Between Health Care and Cannabis*, Lucky Leaf Expo, Dallas, Texas, September 22, 2019
- *Hemp in Texas: Issues in Implementation*, Texas Marijuana Policy Conference, Austin, Texas, August 30, 2019
- *Impact of Medical Marijuana on Home Health & Hospices*, Texas Association of Home Care & Hospice Annual Conference, Grapevine, Texas, August 28, 2019
- *Cannabis: The Next Frontier That Could Impact Your Practice*, American Bar Association Webinar, June 27, 2019
- *Cannabis Law in Texas*, Dallas Bar Association, Dallas, Texas, May 3, 2019
- *Reefer Madness In Medicine and Beyond*, American Academy of Physician Life Care Planners 2019 Annual Assembly, San Antonio, April 11, 2019
- *Cannabis – The Next Frontier That Could Impact Your Practice*, Collin County Bar Association, Plano, Texas, March 29, 2019
- *Cannabis Law in Texas*, Dallas Bar Association, Dallas, Texas, May 3, 2019
- *Reefer Madness In Medicine and Beyond*, American Academy of Physician Life Care Planners 2019 Annual Assembly, San Antonio, April 11, 2019
- *Cannabis – The Next Frontier That Could Impact Your Practice*, Collin County Bar Association, Plano, Texas, March 29, 2019
- *Enforcement & Compliance: Home Health, Hospice and Nursing Homes*, 4th Annual Healthcare Enforcement Compliance Conference, Washington, DC, November 4, 2018
- *Regulatory Pitfalls Associated with Healthcare Investments & Compensation Arrangements*, HFMA Lone Star Summer Institute, Grapevine, Texas, August 24, 2018
- *Physician Investment Opportunities – What Are The Regulatory Pitfalls?*, American Bar Association Physicians Legal Issues Conference, Chicago, Illinois, June 7, 2018
- *Industrial Hemp CBD Products - The Current Legal Outlook*, Dallas Bar Online, Science & Technology Law Section, Dallas Bar Association, May 21, 2018
- *Selling Essentials for Hospice Marketers*, Speaker, Texas & New Mexico Hospice Organization's Hospice Sales and Marketing Essentials Workshop, Dallas, May 7, 2018
- *Legal Issues in the Cannabis Industry*, 23rd Annual Asian Pacific Interest Section, State Bar of Texas, Austin, April 27, 2018
- *The Legal Implications of Healthcare Communications*, The 36th Annual Convention of the Texas & New Mexico Hospice Organization, San Antonio, March 2, 2018
- *Profitability Impacted by HIPAA & Texas Medical Records Privacy Act*, HFMA Lone Star Winter Institute 2018, January 26, 2018
- *The Business of Cannabis*, Texas Cannabis Industry Association - Open Minds Night, October 2017
- *Fraud and Abuse - Avoiding the Pitfalls That Can Be Interpreted as Healthcare Fraud*, Webinar, Texas Association for Home Care & Hospice's Home Care 101, August 31, 2017

- *Update on Medical Review Activities for Home Health and Hospice*, HealthCare ConsultLink Executive Leadership Summit 2017, St. Thomas, USVI, August 2, 2017
- *Legal Concerns for Setting up a Business in the United States*, International Concierge Committee Meeting, Richardson Economic Development Partnership, July 20, 2017
- *Privacy & Security of Protected Health Information Legal Concerns*, 33rd Annual TORCH Conference, June 29, 2017
- *Forecast on Medicinal Cannabis*, DBA Health Care Section Meeting, June 21, 2017
- *Introduction to Cannabis Taxation, Litigation and Regulatory Concerns*, Southwest Cannabis Conference & Expo, Fort Worth, April 22, 2017
- *Managing Annuity Creep*, Texas Assisted Living Association, Galveston, April 12, 2017
- *Health Care Fraud*, HealthCare ConsultLink Quarterly Administrators Training Meeting, December 13, 2016
- *Employer Intrusions and Expectation of Privacy by Employees*, DFW Healthcare Human Resources Association, December 7, 2016
- *Emerging Topics in Cannabis Law*, State Bar of Texas 24th Annual Texas Minority Counsel Program (TMCP), November 10, 2016
- *Privacy & Security Compliance: HIPAA, HITECH Act & Texas HB 300*, 66th Annual Texas Health Care Association Convention, November 2, 2016
- *Case Law & Legislative Update for Chiropractors*, The Parker Experience, Dallas, October 10, 2016
- *Managing Protected Health Information Under HIPAA & Texas Privacy Law*, Tarrant County Bar Association Corporate Counsel Section, September 28, 2016
- *Preventing Harassment & Discrimination in the Workplace*, Texas Association for Home Care & Hospice 2016 Annual Meeting, August 10, 2016
- *Post-Acute Care Providers' Anti-Discrimination Obligations*, Texas Assisted Living Association Annual Conference and Trade Show, April 20, 2016
- *Physician Ancillary Services*, Denton County Medical Society, April 5, 2016
- *Managing Protected Health Information Under HIPAA and Texas Privacy Laws*, Collin County Bar Association Corporate Counsel Section, March 15, 2016
- *Compliance Trends For SNFs, ALCs & Hospices*, American Health Lawyers Association Long Term Care Conference, February 24, 2016
- *Employer Rights with Open Carry*, Webinar, Texas Assisted Living Association, February 1, 2016
- *Best Practices for Internships and Clerkships for 2Ls*, 5th Annual Texas Minority Law Student Program at UNT Dallas College of Law, Dallas, January 22, 2016
- *HIPAA, HITECH Act and Texas House Bill 300*, Texas Association for Home Care & Hospice Administrator Program, Houston, November 17, 2015
- *Being an Expert Witness: Duties, Testimony, Expert Reports and Ethical Considerations*, Texas Rehabilitation Association's Annual Conference, Galveston, September 28, 2015
- *Employment Laws Affecting the Health Care Industry*, Health Care Consultink Administrator Training, Irving, Texas, September 15, 2015
- *Change of Ownership (CHOW) Preparation and Considerations*, TAHC&H Webinar Series, September 10, 2015
- *Health Care Fraud*, Texas Physical Therapy Association Northern District Meeting, July 28, 2015
- *Long Term Care Facility Concerns in Licensure, Certifications, Operations and Transactions*, Health Care Partners Network, Dallas, March 25, 2015
- *Health Care Fraud Concerns in Rehabilitation*, Texas Occupational Therapy Association, Sugar Land, Texas, November 6, 2014
- *Confidentiality in Communication: With Residents, Staff and Family Members*, Texas Assisted Living Association, Dallas, November 5, 2014
- *Long-Term Care Workforce, Licensures Involved, Change of Ownerships (CHOWs) and OIG Exclusions of Certain Staff in Long Term Care*, Dallas Bar Association, Dallas, July 14, 2014
- *A Look at Protecting Patient Information: HIPAA, HITECH Act and Texas HB 300*, Texas Speech-Language-Hearing

NEWS

DLA Piper advises Morgan Stanley Capital Partners in its investment in Ovation Fertility

10 September 2019

DLA Piper represented Morgan Stanley Capital Partners (MSCP), the middle market-focused private equity team within Morgan Stanley Investment Management, in its recent investment in Ovation Fertility.

Richard Cheng joins DLA Piper's Corporate practice in Dallas

31 JAN 2019

DLA Piper announced today that Richard Cheng has joined the firm's Corporate practice as a partner in Dallas.

MEDIA MENTIONS

- Richard Y. Cheng Selected to Edit and Co-Author Chapter on Billing Practices for Nursing Homes for *Bloomberg BNA Health Care Program Compliance Guide*, December 1, 2018
- Richard Cheng Quoted in Dallas Observer Cannabidiol Oil Story, May 23, 2018
- Dallas Observer Reports on Richard Cheng's Challenge of State's Cannabis Oil Ban, April 10, 2018
- Richard Cheng Discusses Drug Exclusions for Medicare and Hospice Patients in Health Care on *Bloomberg Law*, April 2, 2018