

Healthcare Insolvency

Assisting clients through the challenges of healthcare insolvency



When insolvency arises in the healthcare field and you need help

- planning and executing strategies for an insolvent healthcare provider or supplier to provide a “fresh start” in an out-of-court or judicial proceeding including a chapter 11 reorganization case
- navigating the administrative appeals process in connection with recoupment of Medicare overpayments
- addressing and litigating over provider contracts with the payers, including Medicare, Medicaid, and private insurers
- representing bankruptcy trustees and assignees of healthcare estates as well as parties opposing them in connection with sales of healthcare-related assets including receivables, physical assets, and causes of action
- dealing with the appointment of a patient care ombudsman (PCO) as well as maintaining and disposing patient records

our experienced team can work with you from beginning to end.

Deep experience and collaborative approach

Our lawyers bring experienced attorneys from diverse practice areas and business experience to best serve our clients, including

- Former Vice-President of Operations of the largest clinical diagnostic laboratory in the country
- Founder of a comprehensive home healthcare agency specializing in high-tech IV therapy
- General counsel and insolvency counsel retained following entry of \$237 million Stark law and False Claims Act judgment against a hospital
- Founder of first Physician Practice Management company operating in the southeast US

Related Practice Areas

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- Patient Care Ombudsman (PCO) appointed by the UST's office in the Middle District of Florida to over a large skilled nursing facility debtor with a specialty in ventilator dependent patients with Florida's Agency for Healthcare Administration

Our clients range from local healthcare businesses to multi-state healthcare corporations to bankruptcy trustees.

We have experience representing large and small healthcare providers and suppliers, lenders, creditors' committees, and bankruptcy trustees, including

- Small to mid-size community as well as rural critical access hospitals
- Cancer treatment centers
- Skilled nursing facilities
- Home healthcare providers
- Physician practices
- Drug rehabilitation and behavioral modification clinic
- National bank and nationwide healthcare lenders
- Bankruptcy trustees operating or liquidating healthcare facilities
- Large not-for-profit regional healthcare systems
- Clinical diagnostic laboratories
- National for profit operators of over 100 healthcare facilities including hospitals and free-standing surgery centers

Our team's experience helps you navigate regulatory requirements, avoid problems in advance, and solve problems when they do arise.

Extremely important to the healthcare insolvency arena is an in-depth knowledge of various aspects of healthcare including

- Licensing
- CON requirements
- Change of ownership (CHOW) applications
- State Medicaid agencies
- Compliance and risks assessment
- Corporate integrity agreements
- Provider agreements
- Overpayment liability/recoupment

Nelson Mullins has both the healthcare and insolvency experience needed to get your business in regulatory compliance and solve these complex and intertwined issues.

Nelson Mullins' healthcare and insolvency experience works for you.

The causes of healthcare provider financial distress stem from many factors, including (a) subpar revenue cycle management; (b) unprofitable supply chain and physician contracts; (c) overpayments/recoupment and offsets due to fraud; (d) lack of compliance; (e) billing and coding errors; (f) mismanagement; and (g) lack of delivery models to meet community healthcare needs.

Nelson Mullins lawyers can help solve provider healthcare insolvency problems by:

- **Improving relationships** with equity and/or lenders
- **Assisting management** in creating a long term strategic plan both in bankruptcy and out of court restructuring
- **Improving operations** through compliance review, cash conservation, risk management and renegotiating service and supply contracts
- **Bringing in fresh capital sources**
- **Working with CMS and state regulatory agencies**
- **Shepherding asset sales** through the Change of Ownership (CHOW) application
- **Complying with and facilitating corporate integrity agreements**
- **Formulating a plan of reorganization** in chapter 11
- **Arranging sales** of both a not for profit and for profit healthcare business

Why Nelson Mullins?

- Total synergy between the insolvency and healthcare practitioners
- Up-to-date analysis of healthcare trends in reimbursement and quality of care regulations
- Extensive experience in M&A in the healthcare industry
- Far-reaching experience in bankruptcy courts throughout most of the US
- Knowledgeable in working with Medicare Administrative Contractors (MACs)
- Strong working relationships with national healthcare consultants for hospitals, skilled nursing facilities, long term acute care facilities, physician group practices, clinical and pathology diagnostic laboratories, durable medical equipment, and biopharmaceutical companies
- Well versed in both DIP financing and Exit Financing
- Thorough understanding of all aspects of False Claim Act and Anti-Kickback statutes.

Experience

Following is a selected sampling of matters and is provided for informational purposes only. Past success does not indicate the likelihood of success in any future matter.

- Served as committee counsel to a large community hospital in Miami-Dade County that was sold to a for profit healthcare network head-quartered in Puerto Rico. *In re Pan American Hospital Corporation*, Case No. 04-11819 (Bankr. S.D. FL).
- Represented the largest operator of cancer treatment centers in the US as special healthcare counsel. *In re 21st Century Oncology Holdings, Inc.*, Case No. 17-22770 (Bankr. S.D. NY).
- Appointed by the US Trustee's office to serve, as a patient care ombudsman for a skilled nursing facility in Sarasota, Florida with over a twenty-bed ventilator unit, responsible for recertification by the Florida Agency for Health Care Administration. *In re Beam Management, LLC, dba Harmony Healthcare and Rehabilitation Center of Sarasota*, Case No. 10-08580 (Bankr M.D. FL).
- Served as committee counsel to a rural critical access hospital in the Pan Handle of Florida involved in a massive clinical laboratory fraud scheme in excess of \$200 million dollars. *In re Campbellton-Graceville Hospital Corporation*, Case No. 17-40185 (Bankr. N.D. FL).
- Served as special healthcare and bankruptcy counsel in Bayou Shores SNF, which tested bankruptcy jurisdiction in Medicare disputes through the U.S. Bankruptcy Court for the Middle District of Florida, and the Court of Appeals for the Eleventh Circuit. *In re Bayou Shores SNF LLC*, Case No. 14-09521 (Bankr. M.D. FL).
- Served as special healthcare and bankruptcy counsel to a drug rehabilitation and behavioral modification clinic in Orlando Florida. *In re Behavioral Support Services, Inc.*, Case No. 15-0855 (Bankr. M.D. FL).
- Served as lender counsel to a national bank with a multi-million dollar term and revolving loan to the one of the largest operators of Medicare Advantage HMO's in Florida, Texas, and Nevada. *In re Universal Health Care Group, Inc.*, Case No. 13-01520 (Bankr. M.D. FL).
- Served as counsel to bankruptcy trustees in the liquidation of several multi-specialty, multi-locational physician practice groups having sizable receivables recoveries coming from at-risk provider agreement and letters of protection. *In re Miami Neurological Institute, LLC*, Case No. 17-10703; *In re South Florida Multispecialty Associates, LLC*, Case No. 17-19397.
- Serves as committee counsel to multi locational diagnostic center. *In re Access Medical Imaging Corporation*, Case No. 09-12180 (Bankr. M.D. FL).
- Served as co-counsel to unsecured creditors committee for a rural hospital in North Carolina that was sold at public sale to the UNC Healthcare System.
- Represented four home healthcare companies based in North Carolina and South Carolina that were successfully sold and/or reorganized in chapter 11.
- Represented several medical practices sold while operating in chapter 11.
- Served as counsel for numerous healthcare providers sued by chapter 11 liquidation trustees in Virginia and Alabama.
- Served as outside general counsel and insolvency counsel retained following entry of \$237 million Stark law and False Claims Act judgment against hospital, settling the litigation and guiding the hospital through an affiliation transaction with another healthcare system.
- Represented exit financing lender in chapter 11 cases involving a long-term healthcare provider headquartered in Brentwood, Tennessee, providing rehabilitation and skilled nursing services at 14 facilities in four states (Florida, Mississippi, Tennessee, and West Virginia). *In re Vanguard Healthcare, LLC*, Case No. 16-03296 (Bankr. M.D. Tenn.).
- Represented owner of property in chapter 11 case involving a skilled nursing home facility located in Kentucky. Client's claim was secured by debtor's certificate of need issued by the Commonwealth of Kentucky. *In re Lakeside Heights Nursing Center, LLC*, Case No. 06-05492 (Bankr. M.D. Fla).
- Represent a Forbes 200 pharmaceutical whole-sale distributor in consolidated chapter 11 cases of local pharmacies. *In re Cherokee Pharmacy & Medical Supply, Inc., et al.*, Case No. 17-bk-11920 (Bankr. E.D. Tenn.).

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- Represented the creditors' committee in Chapter 11 proceedings pending in the Bankruptcy Court for the Western District of Missouri. The debtors in these cases were a network of 12 critical access hospitals located in the states of Kansas, Missouri, North Carolina, Oklahoma, and Tennessee. *In re HMC/CAH Consolidated, Inc., et al*, Case No. 11-44738 (Bankr. W.D. Mo.).
 - Represented the creditors' committee in Chapter 11 proceedings pending in the Bankruptcy Court for the District of Puerto Rico. Hospital Damas, Inc. is a nonprofit corporation that operated a general medical and surgical hospital in Ponce, Puerto Rico. *In re Hospital Damas, Inc.*, Case No. 10-08844 (Bankr. D. P.R.).
 - Represented the creditors' committee and later plan trustee for Sun Coast Hospital in connection with the sale of the hospital facility. *In re Sun Coast Hospital*, Case No. 07-12926 (Bankr. M.D. Fla.).
 - Represented an indenture trustee for approximately \$290 million in debt instruments in case involving a debtor home medical equipment provider. *In re Rotech Healthcare, Inc.*, Case No. 13-10741-PJW (Bankr. D. Del.).