

Kevin E. Raphael Partner

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KEVIN E. RAPHAEL is a partner of Pietragallo Gordon Alfano Bosick & Raspanti, LLP and Co-Chair of both the Health Care Practice Group and the Government Enforcement, Compliance, and White Collar Litigation Practice Group. He resides in the firm's Philadelphia office. Mr. Raphael routinely practices in the areas of health care, white collar criminal defense, complex commercial disputes, and frequently counsels educational institutions, medical facilities and employers on how to respond to allegations of sexual misconduct.

Mr. Raphael served as an Assistant District Attorney for the Philadelphia District Attorney's Office from 1995 to 2001, during which he tried hundreds of jury and bench trials. As a member of the Family Violence and Sexual Assault Unit, Mr. Raphael was responsible for investigating and prosecuting sexual assaults on minors and on young adults, and was the Office's primary prosecutor of child pornography offenders. Mr. Raphael received law enforcement training concerning the investigation and prosecution of sexual assaults and child pornography offenses. He authored a chapter, "Risk of the Internet," in *Child Maltreatment: A Clinical Guide and Reference*.

Mr. Raphael represented a Fortune 100 Internet Service Provider on its compliance and reporting obligations under Federal, State, and International law, concerning the discovery of child pornography possessed on the internet. Mr. Raphael frequently counsels a variety of institutional clients, including medical facilities, educational institutions and corporations, concerning the investigation of, and response to, allegations of sexual misconduct. In addition, Mr. Raphael provides training and compliance advice to educational facilities concerning Title IX and Clery Act compliance. Mr. Raphael conducts investigations for educational institutions pursuant to Title IX obligations as well as internal investigations in response to allegations that an institution's policies and procedures were inadequate.

Mr. Raphael has handled a wide variety of grand jury investigations and white collar criminal cases across the country, including Health Care Fraud, Medicare and Medicaid Fraud, Food and Drug Administration ("FDA") criminal investigations and public corruption cases. Mr. Raphael also is often retained to conduct internal investigations. His clients include individual corporate employees, government agencies, publicly traded and privately held businesses, hospitals, DME companies, compound and specialty pharmacies, physician practices, and licensed professionals.

Mr. Raphael routinely represents health care entities and providers in civil litigation, such as: the defense of RICO and fraud suits; overpayment, billing, and reimbursement disputes; Recovery Audit Contractor ("RAC") disputes and Medicaid Integrity Program ("MIP")



PRACTICE AREAS

Health Care

Government Enforcement,
Compliance, and White Collar
Litigation

Commercial Litigation

Responding To Allegations Of Sexual
Misconduct

Cyber Liability & Technology Law

PUBLICATIONS

Sexual Harassment Claims at
Educational Institutions, Including
Medical Residence Programs,
Covered by both Title VII and Title IX
A Primer on Federal and Pa.
Electronic Surveillance Law

White House Task Force Offers
Significant Clarifying Guidance on
Title IX Compliance

Health Law Handbook (2015 Edition)
"Sexual Misconduct in Health Care"
Firm Newsletter, Summer 2013

BAR ADMISSIONS

Pennsylvania

New Jersey

U.S. District Court - Eastern District
of Pennsylvania

U.S. District Court - New Jersey

EDUCATION

J.D., *cum laude*, SUNY Buffalo

audits; Medicare appeals; and issues involving non-competes, restrictive covenants, and other business disputes. He also litigates a broad range of other civil matters including contract actions, employment disputes and allegations of statutory or common law fraud. He represents licensed professionals before licensing boards, credentialing committees, privileging committees and other administrative entities.

Mr. Raphael has significant experience reviewing, negotiating and drafting employment, shareholder and partnership agreements for clients in the health care industry. He advises clients on consulting agreements with pharmaceutical and DME companies, as well as other transactional matters.

Mr. Raphael has been selected as a *Pennsylvania Super Lawyer* for 2010, 2011, 2012, 2013, 2014, 2015, and 2016 in the area of Health Care. Previously, he was selected as a *Pennsylvania Super Lawyers Rising Star* for 2005, 2006 and 2007 in the area of White Collar Criminal Defense. In addition, LexisNexis® Martindale-Hubbell® recognizes Mr. Raphael as an AV® Preeminent™ rated attorney, the highest such rating available to any individual lawyer in both legal ability and ethical standards.

Mr. Raphael has been appointed to two three-year terms as a hearing officer for the Disciplinary Board of The Supreme Court of Pennsylvania.

He is on the Board of Directors, and served for a number of years as president, of Northwest Victim Services, a non-profit organization providing counseling and advocacy services to victims of crime.

Mr. Raphael is a member of the American, Pennsylvania and Philadelphia Bar Associations. He is also a member of the American Health Lawyers Association; where he has served the past two years as Vice Chair of Educational Programming, AHLA Fraud and Abuse Practice group. In addition, he is a member of the Health Care Compliance Association, the National Association of Criminal Defense Lawyers and the Pennsylvania Association of Criminal Defense Lawyers.

Mr. Raphael speaks and writes extensively on white collar and health care litigation issues, including fraud and abuse and compliance, as well as educational institutions' Title IX responsibilities. Mr. Raphael also serves as an Adjunct Professor of Health Law at Widener University Delaware Law School.

Mr. Raphael received his J.D., *cum laude*, from the State University of New York at Buffalo Law School. He earned his B.A., *magna cum laude*, from St. Lawrence University where he was in Phi Beta Kappa.

Speaking Engagements

"Sexual Harassment by Physicians: Implications on Medical Staff Privileges, Licensures, and Physician Practices," *AHLA In-House Counsel Program and Annual Meeting* (Chicago, IL) June 25, 2018

"Responding to Allegations of Sexual Misconduct," *Pennsylvania Bar Institute* (Philadelphia, PA) March 22, 2018

"State and Federal Criminal and Civil Enforcement Priorities in Healthcare in 2018: A Discussion," *Pennsylvania Bar Institute's 24th*

School of Law

B.A., *magna cum laude*, St. Lawrence University

REPRESENTATIVE CASES

State Farm Mutual Automobile Insurance Co. v. Ficchi, Civil Action No. 10-555, 2011 WL 2313203 (E.D. Pa. June 13, 2011)

Sternberg v. Nanticoke Memorial Hosp., Inc., 15 A.3d 1225 (Del. 2011)
American Bd. of Internal Medicine v. Oni, Civil Action No. 10-CV-2679, 2010 WL 3860444 (E.D. Pa. Sept. 30, 2010)

United States et al. v. Christiana Care Health System et al., Civ. No. 05-344 (D. Del., 2010)

Sternberg v. Nanticoke Memorial Hosp., Inc., 2009 WL 3531791 (Del. Super. Ct. 2009)

Division of Alcoholic Beverage Control v. MAG Entertainment, LLC, No. A-2282-07T3 (N.J. App. Div. 2008)

United States v. Burns, 280 F. Supp. 2d 325 (D. Del., 2003)

MAG Enter. Inc. v. Pa. Liquor Control Bd., 806 A.2d 521 (Pa. Commw. Ct., 2002)

United States v. Brodie, 174 F. Supp. 2d 294 (E.D. Pa., 2001)

United States v. Brodie, No. Crim. 00-CR-629, 2001 WL 1159756 (E.D. Pa., Aug. 11, 2001)

Annual Health Law Institute (Philadelphia, PA) March 13-14, 2018

"Updates in Qui Tam Litigation," *PACDL White Collar Conference* (Philadelphia, PA), November 22, 2016

"Recent Litigation Updates," *Higher Education Conference* (Philadelphia, PA), November 10, 2016

"Entering the Practice of Medicine - Eyes Wide Open," *Boston Scientific Fellowship Program* (Philadelphia, PA), October 20, 2016

"Entering the Practice of Medicine - Eyes Wide Open," *Boston Scientific Fellowship Program* (Pittsburgh, PA), October 18, 2016

"Understanding Pennsylvania Grand Jury Practice," *Pennsylvania Bar Institute* (Philadelphia, PA), July 21, 2016

"Understanding Pennsylvania Grand Jury Practice," *Pennsylvania Bar Institute* (Pittsburgh, PA), July 15, 2016

"Private Health Insurance Companies: Current Strategies to Curtail Fraud, Abuse and Waste," *22nd Annual PBI Health Law Institute* (Philadelphia, PA), March 16, 2016

"Compliance for Academic Medical Centers," *AHLA Advanced Compliance Education Series*, January, 2016

"Update on Title IX, Clery Act, and Sexual Assault at Higher Educational Institutions," November 5, 2015

"Entering the Practice of Medicine: Eyes Wide Open," September 30, 2015

"What You Need to Know about Compliance Programs and Defending Fraud and Abuse Matters," *PBI: Understanding the Basics of Fraud and Abuse in the Healthcare Industry* (Philadelphia, PA), September 28, 2015

"Responding to Allegations of Sexual Misconduct: A Legal Update for Employers, Educators, and Health Care Providers," *PBI Program-Course Planner and Speaker* (Philadelphia and Pittsburgh, PA), July 14 and 21, 2015

"Title IX Litigation Update," *PBI Program on Higher Education: Representing Colleges and Universities* (Philadelphia, PA), June 3, 2015

"The States' Perspective: Strategies and Current Priorities for Combating Fraud, Abuse, and Waste," *AHLA Fraud and Abuse Conference* (Baltimore, MD), September 28, 2015

"Who Do You Love? Torn Between the Corporate Entity and the Corporate Client," *PBI Commercial Litigation Institute*, March 18, 2015

"Academic Medical Centers' Obligations and Title IX," *PBI Health Law Institute*, March 13, 2015

"Title IX, Clery Act and Sexual Assault," (Philadelphia, PA), January 14, 2015

"Title IX and Sexual Assault," *CAPE Institute CLE* (PA), December 16, 2014

"Intersections of Ethics and Health Law," *Attention in Health Care* (Wilmington, DE), November 4, 2014

"Reflections by E.D. Pa USA Zone Manage," *AHLA Fraud and Abuse Conference* (Baltimore, MD), October 6, 2014

"Eyes Wide Open: Even the Practice of Medicine," (Philadelphia PA), September 9, 2014

"Government Enforcement on Corporate Compliance," *Defense Research Institute* (Washington D.C.), July 24, 2014

"Lessons Learned in Litigation," *PBI's Representing Colleges and Universities* (Philadelphia, PA), April 4, 2014

"Sexual Misconduct Allegations in a Healthcare Setting: Views From Both Sides," *PBI's Health Law Institute* (Philadelphia, PA), March 13-14, 2014

"Sexual Misconduct: Creating Safe Environments and Avoiding Employer Liability," *American Law Institute CLE* (Philadelphia, PA), December 17, 2013

"Entering the Practice of Medicine: Eyes Wide Open Legal and Regulatory Issues in an Evolving Health Care Environment," (New York, NY), December 7, 2013

"Entering the Practice of Medicine: Eyes Wide Open Legal and Regulatory Issues in an Evolving Health Care Environment," (Philadelphia, PA), September 17, 2013

"Confidentiality and Behavioral Health: Current Limitations on the Mental Health Procedures Act Confidentiality Provisions and the Patient Psychotherapist Privilege - What to Know to Avoid Potential Liability," *PBI's 19th Annual Health Law Institute* (Philadelphia, PA), March 12-13, 2013

"Allegations of Sexual Misconduct in a Post-Sandusky World: What Educational Institutions And Employers Must Know," *Philadelphia Bar Institute* (Philadelphia, PA), February 14, 2013

"Introduction to Health Care Fraud and Abuse," *AHLA Fraud and Abuse Practice Group Boot Camp Webinar* (Philadelphia, PA), February 13, 2013

"Entering the Practice of Medicine: Eyes Wide Open Legal and Regulatory Issues in an Evolving Health Care Environment," (Boston, MA), January 17, 2013

"Investigating Allegations of Sexual Misconduct: The Criminal, Civil and Administrative Considerations for Educational Institutions and Employers," *ABA White Collar Crime Mid-Atlantic Region: CLE Event and Networking Reception* (Philadelphia, PA), November 8, 2012

"What You Need to Know About Compliance Programs" and "Defending Fraud and Abuse Matters: Conducting Internal Investigations and Responding to Subpoenas, Search Warrants and Other Information Requests," *PBI's Understanding the Basics of Fraud & Abuse in the Health Care Industry CLE* (Philadelphia, PA), July 26, 2012

"Collateral Consequences of White Collar Prosecutions of

Professionals," *ABA White Collar Crime Committee's Philadelphia Young Lawyers' Division CLE Program* (Philadelphia, PA), July 11, 2012

"Defending Against Fraud and Overpayment Actions By Insurance Companies: Emerging Theories of Defense," *PBI's 18th Annual Health Law Institute* (Philadelphia, PA), March 14, 2012

"Entering the Practice of Medicine: Eyes Wide Open Legal and Regulatory Issues in an Evolving Health Care Environment," (Philadelphia, PA), February 1, 2012

"Part I: Fraud Healthcare Primer," *AHLA Healthcare Fraud and Abuse Bootcamp Webinar Series*, January 17, 2012

"Entering the Practice of Medicine: Eyes Wide Open Legal and Regulatory Issues in an Evolving Health Care Environment," (Boston, MA), January 12, 2012

"Entering the Practice of Medicine: Eyes Wide Open Legal and Regulatory Issues in an Evolving Health Care Environment," (Houston, TX), December 6, 2011

"Entering the Practice of Medicine: Eyes Wide Open Legal and Regulatory Issues in an Evolving Health Care Environment," (Las Vegas, NV), December 1, 2011

"Crimes and Misdemeanors: The Intersection of Health Care Fraud and Rules of Professional Conduct," *Pennsylvania Bar Institute "A Day on Health Law"* (Philadelphia, PA), October 19, 2010

"Times They Are A'Changing – Hot Topics In Contracting and Litigation With Private Health Insurance Companies," *PBI's 16th Annual Health Law Institute* (Philadelphia, PA), March 11-12, 2010

"Crimes and Misdemeanors: The Intersection of Health Care Fraud and Rules of Professional Conduct," *PBI's 16th Annual Health Law Institute* (Philadelphia, PA), March 11-12, 2010

"The Mechanics of Pennsylvania Civil Procedure," *National Business Institute* (Philadelphia, PA), December 18, 2009

"Self-Disclosure and the Ethical Duties of a Health Lawyer (ETHICS)," *PBI's 15th Annual Health Law Institute* (Philadelphia, PA), March 13, 2009

"We PREEMPT Our Regularly Scheduled Program to Bring You This Special Event...Duty To Warn and Preemption," *15th Annual Health Law Institute* (Philadelphia, PA), March 12, 2009

"Product Classification under the United States Food Drug and Cosmetic Act: Food, Dietary Supplement, Cosmetic, Drug, Medical Device or Combination?" *14th Annual Health Law Institute* (Philadelphia, PA), March 2008

"Hot Topics in FDA Law: Compounding, Duty to Warn, Post Market Risk Issues, and Future Direction," *14th Annual Health Law Institute* (Philadelphia, PA), March 2008

"Use of Non-FDA Approved Drugs and Off-Label Promotion: Criminal and Civil Risks to a Provider," *Teleconference, Progressive Business Audio Conferences*, January 8, 2008

"The Criminal and Civil Risks to a Provider of Using Non-FDA Approved Drugs and Devices," *A Day on Health Law*, Pennsylvania Bar Institute (Philadelphia, PA), October 16, 2007

"Criminal Defense: Pretrial Success," *National Business Institute* (Philadelphia, PA), August 16, 2007

"The Criminal Defense Trial from Start to Finish," *National Business Institute* (Philadelphia, PA), April 30, 2007

"The Criminal and Civil Risks to a Provider of Using Non-FDA Approved Drugs and Devices," *13th Annual Health Law Institute*, Pennsylvania Bar Association (Philadelphia, PA), March 2007

"Off-Label Marketing of Prescription Drugs and Devices, the False Claims Act, and the Impact of Medicare Part D," *ABA Health Law Section 8th Annual Conference on Emerging Issues in Healthcare Law* (Orlando, FL), February 22, 2007

"The Wolf in the Woods: The Threat of Private Payor Claims During, or After, a False Claims Act Case," *12th Annual Health Law Institute*, Philadelphia Bar Institute (Philadelphia, PA), March 15, 2006

"To Plea or Not To Plea: Negotiating with the Government," *For the Experienced: The Ultimate Criminal Law CLE*, Pennsylvania Association of Criminal Defense Lawyers (Philadelphia, PA), October 29, 2005