



Forum on

COVID-19 LIABILITY FOR

 **AUGUST 18, 2020 EDT**
 **VIRTUAL CONFERENCE**

Long-Term Care and Senior Care Providers

CO-CHAIRS:



Caroline J. Berdzik
*Partner and Chair of
Healthcare and Employment
and Labor Practice Groups*
Goldberg Segalla LLP



Michael W. Bootier
Shareholder
**Buchanan Ingersoll &
Rooney PC**

KEYNOTE ADDRESS BY:



Thomas Balcezak, MD, MPH
*Chief Medical Officer and
Chief Clinical Officer*
**Yale New Haven Hospital
System**

ASSOCIATE SPONSOR

K&L GATES

Join us for a one-day virtual event for Counsel for the Long Term Care and Senior Care Industries.

COVID-19 is at the center of a pandemic that the world has not experienced in over a century. It has also unleashed a “perfect storm” atmosphere for lawsuits and investigations against the long-term care industry.

Long term care facilities from skilled nursing to senior care to assisted living are all experiencing a deluge of lawsuits and investigatory inquiries. This conference will provide long term care industry attorneys as well as their outside counsel with a state of the union on these lawsuits as well as an assessment of causes of action and defense preparation strategies.

Featured Sessions Include:

- COVID-19-related Long Term Care Lawsuits and Class Actions: Analysis of Causes of Actions, Pleadings
- What Every Long-Term Care Attorney Needs to Know About State and Federal Immunity Statutes
- Defense Preparedness: COVID-19 Response Plan Agility, Proper Documentation, and Task Force Formation
- Potential COVID-19-related Criminal Liability

8:15

Opening Remarks from The Co-Chairs



Caroline J. Berdzik
Partner and Chair of Healthcare and Employment and Labor Practice Groups
Goldberg Segalla LLP (Princeton, NJ)



Michael W. Bootier
Shareholder
Buchanan Ingersoll & Rooney PC (Philadelphia, PA)

8:30

Understanding How the Trajectory of the Pandemic Created a Perfect Storm for LTC Litigation



Caroline J. Berdzik
Partner and Chair of Healthcare and Employment and Labor Practice Groups
Goldberg Segalla LLP (Princeton, NJ)



Michael W. Bootier
Shareholder
Buchanan Ingersoll (Philadelphia, PA)

- Analyzing how the COVID-19 Pandemic added a whole new dimension to traditional negligence and standard of care lawsuits brought against the LTC industry
- Examining how the CMS COVID Notification Regulation created before and after timelines for COVID-related lawsuits
- Understanding how the pathology of COVID-19 transformed traditional infection prevention mechanism

9:00

What Every Long-Term Care Attorney Needs to Know About State and Federal Immunity Statutes: An In-Depth Guide to New State COVID-19 Relief Protections for LTC Providers



Drew Graham
Partner
Hall Booth Smith, PC (New York, NY)

- Analyzing protections afforded to LTC facilities by the PREP Act
- Surveying expanded immunity protections for the LTC industry under state immunity statutes and executive orders
- Understanding who and what activities are protected by these state statutes
- Assessing the protections afforded under these statute as well as their limitations
- Weighing the likelihood of repeal of the state immunity legislation based on public opinion

10:00 Morning Break



Join Our Email List to Stay Connected

SIGN UP TO RECEIVE EXCLUSIVE DISCOUNTS, OFFERS AND PROGRAM UPDATES

AmericanConference.com/join-our-email-list/

10:30

Anatomy of COVID-19 Long Term Care Lawsuits and Class Actions – Analysis of Causes of Actions, Pleadings and Merit



Dylan Braverman
Partner
Vigorito, Barker, Patterson, Nichols & Porter, LLP (New Canaan, CT)



William J. Mundy, Esq.
Member
Burns White LLC (Conshohocken, PA)

INDIVIDUAL CASES

- Surveying state COVID LTC litigation hotspots
- Examining the common elements causes of action alleged in these COVID cases
- Understanding why deceptive conduct, non-transparency, gross negligence are all pled in the absence of intent
- Exploring possible venue challenges under PREP Act relative to DC Federal Courts
- Case study: *Morin v. LifeCareClass Action Filings*
- Examining *Gill et al v. Pennsylvania Department of Health* as the possible bellwether case of COVID-19 LTC class action litigation against state institutions
- Analyzing merits of allegations of unauthorized clinical trials in violation of the Nuremberg Code
- Assessing applicability of sovereign immunity
- Surveying other recent COVID-relate LTC class action activity on merits, causation, and public policy arguments
 - » *Maglioli v. Andover Subacute Rehabilitation Center*, Superior Court of NJ (May 2020)
 - » *Schoengood, et al v. Hofgur, LLC d/b/a Queens Adult Care Center* (E.D.N.Y 2020)
- Predicting the scope and likelihood of future class action activity in this area

12:00 Lunch Break

1:00

KEYNOTE



Thomas Balcezak, MD, MPH
Chief Medical Officer and Chief Clinical Officer
Yale New Haven Hospital system (New Haven, CT)

1:30

Preparing for The Inevitable: Defense Preparedness for LTC COVID-19 -Related Lawsuits



Myla R. Reizen
Partner
K & L Gates (Miami, FL)



Heather Noughton Bokor
Senior Director of Compliance
University of Florida Health (Gainesville, FL)

EXAMINING RESPONSE PLANS

- Ensuring that COVID-19 response plans are agile and fluid enough to meet evolving CDC and HHS/CMS guidance's in addition to other applicable federal, state and local guidance's
- Complying with federal and state mandated transparency and notification requirements
- Examining infection prevention response plans pre- and post-COVID to demonstrate compliance with existing guidelines
- Updating timelines daily to document fluidity in responding to evolving guidance

DOCUMENTATION

- Implementing an agile and effective record keeping compliance program
- Writing it all down: understanding the profound importance of documentation and why it is the key to a successful defense in the LTC arena
- Developing lists and keeping checklists of all applicable activity to demonstrate the highest standards of care
- Documenting infection control procedures as well as good deeds
- Task forces and Committees
- Establishing internal COVID-19 task forces to address COVID-related challenges and implement procedures

3:00 Afternoon Break

3:30

Anticipating Criminal Investigations of Long-Term Care and Senior Care Providers Relative to the COVID-19 Pandemic



Amy Walsh
Partner
Orrick (New York, NY)



John H. Lawrence
Partner
K & L Gates
(Miami, FL)

- Assessing the Pennsylvania AG's commencement of a criminal investigation of alleged criminal negligence in nursing homes relative to the COVID-19 pandemic
- Anticipating which other states may take similar actions and whether such activity will give rise to a coalition of State AGs
 - » New York
 - » New Jersey
- Exploring circumstances in which state manslaughter statutes may be invoked
- Exploring activities by LTC providers which may be the focus of federal COVID-19 investigations

SPECIAL DISCOUNT

ACI offers financial scholarships for government employees, judges, law students, non-profit entities and others. For more information, please email or call customer service.

4:15

A Question of Insurance: Understanding What Coverages are Invoked in the Time of Pandemic and How COVID-19 May Radically Change LTC Provider Coverage as We Know It



Shane M. Riccio
Producer, Health and Human Services
The Graham Company (New York, NY)



Sean M. Brogan, Esquire
Managing Director
The Graham Company (Philadelphia, PA)

- Assessing current provider concerns in view of COVID-related lawsuits
- What coverages and exclusions should providers be aware of in current policies?
- Understanding the looming threat of COVID-exclusions in renewals
- Examining the dangers of batch claims

5:00

Focus on Related COVID-19 Potential Litigation and Liabilities that LTC Providers Cannot Ignore



Neville M. Bilimoria
Partner
Duane Morris LLP
(Chicago, IL)



Adam S. Guetzow
Partner
Hinshaw & Culbertson
LLP (Chicago, IL)



Minton P. Mayer
Co-managing Partner
Quintairos, Prieto, Wood & Boyer, P.A.
(Nashville and Memphis, TN)

- Examining circumstances which may give rise to potential fraud and abuse allegations- both criminal and civil
- Assessing the probability of antitrust activity
- Exploring employee and whistle blower actions
- Investigating potential fraud claims from residents of assisted living facilities for having services and activities curtailed

5:30 End of Conference

Continuing Legal Education Credits



Accreditation will be sought in those jurisdictions requested by the registrants which have continuing education requirements. This course is identified as nontransitional for the purposes of CLE accreditation.

ACI certifies this activity has been approved for CLE credit by the New York State Continuing Legal Education Board.

ACI certifies this activity has been approved for CLE credit by the State Bar of California.

ACI has a dedicated team which processes requests for state approval. Please note that event accreditation varies by state and ACI will make every effort to process your request.

For more information on ACI's CLE process for virtual events visit: www.americanconference.com/accreditation-instructions-for-virtual-attendance/

3 Ways to Register



ONLINE:
AmericanConference.com/Long-Term-Care-Liability



EMAIL:
CustomerService@AmericanConference.com



PHONE:
1-888-224-2480

DELEGATE FEE

Virtual Conference

\$995

REGISTRATION CODE:
B00-861-861L21.WEB

CONFERENCE CODE:
861L21-VRT