

EpsteinBeckerGreen

HEAL

HealthEmploymentAndLabor.com

Two National Practices.  
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HEALTH



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# HEAL Group Representative Matters

*“We bring over three decades of experience to every engagement because Health Care and Life Sciences, and Labor and Employment are the founding practices of our firm.” – Jay P. Krupin, Chair, HEAL Group*

## WHAT

The Health Employment And Labor (HEAL) Group at Epstein Becker Green unites the firm’s two premier, national practices – Health Care and Life Sciences, and Labor and Employment – to help health care and life sciences clients address the many challenges that face in the labor and employment area. Each of these practice groups is one of the largest practices in the United States. Our cross-disciplinary legal and regulatory experience enables us to provide clients with comprehensive solutions to complex problems, especially those created by the unique health care industry regulatory and business challenges.

## HOW

The Health Care and Life Sciences practice of Epstein Becker Green has been at the forefront of health care law since the firm’s inception in 1973 and is taking the lead in understanding, interpreting, and shaping the issues and regulations that affect health care and life sciences institutions.

Epstein Becker Green’s Labor and Employment practice is a cornerstone of the firm, representing management in all sectors of the health care and life sciences industry. According to the 2010 edition of Chambers USA: America’s Leading Lawyers for Business, “The firm’s strong position in the labor and employment sector has historically attracted a number of health care clients and it remains preeminent on the provider side.”

Members of both these leading national practices form the HEAL Group at Epstein Becker Green, which serves the full spectrum of manufacturers, payers, providers, and service providers to the health care industry such as private equity and other financial services firms. Attorneys in our HEAL Group are in demand by entities throughout the health care and life sciences industry because they have the specific industry and regulatory knowledge and experience necessary to address clients’ labor and employment issues:

- Labor-management relations
- Wage and hour compliance
- Discrimination matters
- Noncompetition agreements
- Whistleblower actions

**Acute care hospital and its affiliated nursing homes** – The HEAL Group successfully represented an acute care hospital and its affiliated nursing homes in arbitrations against SEIU and District 1199. We also managed the response to a union organizing campaign and acted as lead counsel in all NLRB proceedings.

**Multistate operator of assisted-living facilities** – The HEAL Group effectively renegotiated a collective bargaining agreement for a multistate operator of assisted-living facilities, increasing operational flexibility and adding an economic distress clause. We successfully defended the same operator against unfair labor practice charges brought before the NLRB.

**Medical coding and billing consultancy** – The HEAL Group advised a medical coding and billing consultancy on independent contractor classification issues.

**Large pharmaceutical manufacturer** – The HEAL Group successfully represented a large pharmaceutical manufacturer in response to a union organizing campaign.

**Home health service provider** – The HEAL Group assisted a home health service provider with a full-scale labor and employment law audit, including giving advice on wage and hour, pay-per-visit, and independent contractor issues. We also conducted a policy review and manager training, created an employee handbook, and counseled the client on downsizing strategies.

**National health care organization** – The HEAL Group successfully defended a national health care organization in multiple employee actions brought in state and federal courts alleging discrimination, wrongful termination, sexual harassment, public policy violations, wage and hour violations, and breach of contract issues.

**Home health care company** – The HEAL Group assisted a newly formed home health care company in a joint venture transaction, advising on all labor and employment, health regulatory, and licensing matters.

**Clinical laboratory** – The HEAL Group obtained summary judgment in federal court on behalf of a clinical laboratory that faced claims of unlawful interference with FMLA rights and retaliatory discharge.

## WHY YOU NEED THE HEAL GROUP NOW

New legislation and Department of Labor policy changes have created new liabilities for companies operating in the health care and life sciences industry and new requirements for labor and employment compliance. These include, but are not limited to:

- Increased union activity to organize all forms of health care enterprises
- Expanded wage and hour/FLSA liability under the health reform legislation of 2010
- New whistleblower liabilities under the Elder Justice Act
- Extended health plan/ERISA obligations

However, certain challenges have risen to the fore with greater urgency.



**Problem:** *Buyers of health care assets face dual regulatory compliance liabilities with acquisition targets.* Health care M&A activity is expected to increase significantly throughout 2010 and 2011. A recent survey of 75 U.S.-based health care investors reports that employment and labor risks and liabilities are considered most likely to be overlooked during a pre-acquisition due diligence review.

**Solution:** *The HEAL Regulatory Risk Due Diligence Team* provides highly focused health and employment and labor regulatory due diligence and risk mitigation counseling to both financial and strategic investors in health care assets.

**Problem:** *New Department of Labor policies mean that health care providers may be considered federal government contractors or subcontractors if they meet certain tests.* Providers who are federal government contractors/subcontractors will be required to comply with comprehensive affirmative action laws and be subject to investigations and penalties by the Labor Department.

**Solution:** *The HEAL Compliance Advisory Team* helps health care provider clients determine if their current and proposed service and reimbursement contracts with other providers or third-party payors make them “government contractors.” The HEAL team also offers strategic options for union avoidance and assured regulatory compliance.

**Problem:** *As collective bargaining agreements (CBAs) come up for renewal, employers will need to take a “21st century” approach to address the new realities they are facing.*

**Solution:** *The HEAL Labor Negotiations Team* advises health care enterprises on how to respond to economic distress and technological changes and on which key provisions to include in contracts, such as a “most favored nation” clause, to ensure that they receive the same beneficial terms that the union may negotiate with other employers. The HEAL team reviews CBAs *before* they expire to proactively develop an enterprise’s strategy.



To discuss how Epstein Becker Green’s HEAL Group can help you meet these challenges in an efficient, comprehensive, and cost-effective manner, please contact Jay P. Krupin at 202/861-5333 (direct), 202/302-7838 (alt.), [jpkrupin@ebglaw.com](mailto:jpkrupin@ebglaw.com); or Lynn Shapiro Snyder at 202/861-1806 (direct), [lsnyder@ebglaw.com](mailto:lsnyder@ebglaw.com).

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