

# Susan Banks

## Partner



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Denver

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## Overview

Susan Banks, a member of Dentons' Health Care practice, advises health care providers and suppliers on the full range of Medicare and Medicaid compliance and reimbursement issues. She also helps clients navigate the complexities of health care delivery reform and the rapidly evolving federal regulatory environment.

Susan frequently advises clients on matters involving the calculation of prospective payment system (PPS) rates and coverage and billing rules for various items and services. Her recent engagements have included advising clients regarding:

- Medicare cost-reporting rules
- Outpatient physician supervision requirements
- Billing for services furnished by midlevel practitioners
- Medical necessity of inpatient admissions
- Inpatient admission order requirements
- Rules to qualify for provider-based status and related billing and payment rules
- Scope of the diagnosis-related group (DRG) three-day payment window
- Appropriate uses of advance beneficiary notices (ABNs) and hospital-issued notices of noncoverage (HINNs)

Susan has extensive experience with graduate medical education (GME) reimbursement and contracting requirements, and with the establishment of new medical and dental residency programs. She also advises clients on the requirements for participating in the 340B Drug Discount Program.

Susan assists clients in conducting internal investigations of compliance and reimbursement matters and, when appropriate, making self-disclosures and voluntary refunds. She also has experience advising and representing clients in government investigations and civil and criminal litigation involving allegations of fraud and abuse arising under the federal False Claims Act, Stark Law and Anti-Kickback Statute. Susan has represented clients in connection with investigations and audits undertaken by federal and state regulatory and enforcement agencies

including the US Department of Justice (DOJ), the US Department of Health and Human Services Office of Inspector General (HHS-OIG), the Centers for Medicare and Medicaid Services (CMS) and its contractors, and the Health Resources and Services Administration (HRSA).

Susan regularly drafts on clients' behalves comment letters for submission to various state and federal administrative bodies. She also assists providers in filing appeals with the Provider Reimbursement Review Board (PRRB) and participates in administrative hearings before the board.

## Recognition

- Recognized as a "Washington, DC, Rising Star" in health care law, *Super Lawyers*, 2016, 2017, and 2018

## Insights

- Co-author, "CMS ignores district court ruling and proceeds with planned payment cuts for hospital outpatient clinic visits at off-campus provider-based departments," Dentons client alert, November 12, 2019
- Co-author, "Medicare cost reporting changes on the horizon," Dentons client alert, May 4, 2018
- Co-author, "FY 2019 IPPS proposed rule contains GME-related provisions," Dentons client alert, April 25, 2018
- Co-author, "House of Representatives reintroduces resident rotator legislation," Dentons client alert, December 14, 2017
- Co-author, "Tying GME Funding to Quality Metrics," Dentons client alert, November 30, 2017
- Co-author, "The Teaching Health Center Graduate Medical Education Program," Dentons client alert, November 2, 2017
- Co-author, "CMS now auditing Section 5503 slot awards," Dentons client alert, April 6, 2017
- Co-author, "Medicare Emergency Affiliated Group Agreements: Helping Medical Residents in Disaster Areas Continue Their Training," *Medicare Report (BNA)*, October 2017
- Co-author, "CMS Now Auditing Section 5503 Slot Awards," *AHLA Weekly*, April 2017
- Contributing author, *Representing Hospitals and Health Systems Handbook*, First Edition, AHLA Publication, August 2016
- Co-author, "Providers and Patients Pay the Price When CMS Plays Doctor," *AHLA's Fraud and Abuse Newsletter (5:1)*, February 2016
- "HRSA Proposes Big Changes in 340B Omnibus Guidance," *Reimbursement Advisor*, October 2015
- Co-author, "When the Delivery of Medically Necessary Services May Expose Your Hospital to False Claims Act Liability," AHLA's Fraud and Compliance Forum, course materials, September 2015
- "Do Residents Need Their Own NPIs?," *Reimbursement Advisor*, June 2015
- "NCDs May Pose Compliance Risk," *Reimbursement Advisor*, April 2015
- "Bundling of Preadmission Emergency Services for Patients Admitted to Inpatient Psychiatric Facilities," *Dennis Barry's Reimbursement Advisor*, November 2014
- Co-author, "Medicare Reimbursement for Discarded Drug Amounts in Single-Dose Vials," *Dennis Barry's Reimbursement Advisor*, October 2014
- Co-author, "MA Payors, Questionable Readmission Policies," *Dennis Barry's Reimbursement Advisor*, August 2014

2014

- Co-author, "Telehealth: A Promising, but Still Uncertain, Business Case," *Law360*, June 19, 2014
- Co-author, "CMS Uncompensated Care Policy," *Dennis Barry's Reimbursement Advisor*, April 2014
- Co-author, "New GME Programs: Traps for the Unwary," *Dennis Barry's Reimbursement Advisor*, December 2013
- Co-author, "Pros and Cons Of A Medicare Pay-for-Performance Model," *Law360*, November 25, 2013
- "Pushing the 340B Envelope," *Dennis Barry's Reimbursement Advisor*, April 2013
- Contributing author, "2013 Medicare IPPS/LTCH Final Rule," American Health Lawyers Association Member Briefing, December 2012
- "Readmissions Adjustment and Medicare Part C," *Dennis Barry's Reimbursement Advisor*, November 2012
- Co-author, "Clinic and ED Visit Billing Under Hospital Outpatient PPS," *Dennis Barry's Reimbursement Advisor*, October 2012
- "ICD-10: Implications for Provider Reimbursement," *Dennis Barry's Reimbursement Advisor*, May 2012
- "2011 OPPTS Relaxes Physician Supervision Standard," *Dennis Barry's Reimbursement Advisor*, February 2011
- "May 11 Deadline to Resolve Past FTE Determinations," *Dennis Barry's Reimbursement Advisor*, October 2010
- "PPACA on Unused Residency Slots," *Dennis Barry's Reimbursement Advisor*, October 2010
- Co-author, "Providers Rack up RAC Wins," *Dennis Barry's Reimbursement Advisor*, September 2010
- "PPACA Modifies FTE Count Rules," *Dennis Barry's Reimbursement Advisor*, September 2010
- "CMS Clarifies Physician Supervision Requirements," *Dennis Barry's Reimbursement Advisor*, August 2010
- "New Rules on Mental Health Parity," *Dennis Barry's Reimbursement Advisor*, April 2010

## Activities and Affiliations

- Co-instructor, "Medicare Coverage, Payment and Compliance," University of Virginia School of Law, Fall 2018
- Co-instructor, "Medicare Coverage, Payment and Compliance," University of Virginia School of Law, Spring 2017

## Presentations

- "GME Update: Payment and Policy," American Dental Education Association, Annual Meeting, March 18, 2017
- "GME Update: Payment and Policy," American Dental Education Association, Annual Meeting, March 12, 2016
- Co-presenter, "Mega Changes Proposed in HRSA's 340B Mega-Guidance," American Health Lawyers Association webinar, September 15, 2015
- "GME Update: Payment and Policy," American Dental Education Association, Annual Meeting, March 7, 2015
- Co-presenter, "Graduate Medical Education – Regulations and Ruminations Following the Release of IOM

Report,” American Health Lawyers Association, Conference on Legal Issues Affecting Academic Medical Centers and Other Teaching Institutions, January 22, 2015

- “GME Update: Payment and Policy,” American Dental Education Association, Annual Meeting, March 17, 2014
- Co-presenter, “GME Funding—Concerns for Oral and Maxillofacial Surgery Training,” American Association of Oral and Maxillofacial Surgeons, Annual Meeting Faculty Summit, October 7, 2013
- “GME Update: Payment and Policy,” Keynote Address, American Dental Education Association, Sections on Business & Finance and Clinic Administration, Mid-Year Meeting, October 11, 2012
- Co-presenter, “SCOTUS Has Spoken, Part II: The Status of ACOs, Payment Reform Initiatives, and the Expansion of the Medicaid Program,” American Health Lawyers Association webinar, July 12, 2012

## Memberships

- Colorado Bar
- District of Columbia Bar
- Virginia State Bar (Associate Member)
- American Bar Association
- American Health Lawyers Association

## Areas of focus

### Practices

- Health Care

### Industry sectors

- Litigation, Arbitration, Mediation and other Dispute Resolution
- Regulatory Counseling
- Academic Medical Centers
- Fraud and Abuse Counseling, Investigations and Defense
- Health Care
- Life Sciences
- Graduate Medical Education

## Education

- University of Virginia, 2009, JD
- Northwestern University, 2000, BA

## Admissions and qualifications

- Colorado
- District of Columbia
- Virginia
- US Court of Appeals for the District of Columbia Circuit
- US District Court for the District of Columbia

## Languages

- English