

# Dialysis & Nephrology DIGEST

A monthly report by Benesch on the  
Dialysis & Nephrology Industry

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FL healthcare organization names former SCA exec as head of ASCs

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## Calendar of Events

APRIL 11-15, 2023  
**National Kidney Foundation Spring Clinical Meeting**  
For information, please click [here](#).

APRIL 26-27, 2023  
**Dialysis Facility Operations 201: Survey Readiness**  
For information, please click [here](#).

MAY 10, 2023  
**Pinnacle 2023 Best Practices Symposium**  
For information, please click [here](#).

MAY 16-17, 2023  
**2023 RHA Day on the Hill**  
For information, please click [here](#).

MAY 18-20, 2023  
**OEIS 2023 Annual Meeting - Early Bird Registration extended to Apr. 3**  
For information, please click [here](#).

MAY 19-21, 2023  
**VASA 2023 Hands-On Practicum on Hemodialysis Access - Sponsor Prospectus Available**  
For information, please click [here](#).

MAY 30-JUNE 2, 2023  
**NCVH Annual Conference**  
For information, please click [here](#).

JUNE 24-25, 2023  
**RPA: PAL 2023 Annual Forum**  
For information, please click [here](#).

## Dialysis & Nephrology DIGEST



Please contact us if you would like to post information regarding your upcoming events or if you'd like to guest author an article for this newsletter.

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[jgreis@beneschlaw.com](mailto:jgreis@beneschlaw.com)

### LIVE LEGAL WEBINAR

Tuesday, April 18, 2023  
6:00 - 7:00 PM EST



### Private Equity Investment: Is it Right for You?

This OEIS complimentary webinar will explore business, legal, valuation and diligence issues that commonly arise in private equity and strategic transactions with physician practices and office-based laboratories, including the following:

- Evaluating whether private equity investment is the right choice for your practice/OBL
- Valuation questions and methods for maximizing sale value
- Preparing your practice/OBL for a deal
- Governmental enforcement trends in private equity

The panel discussion will be followed by an opportunity for webinar participants to ask questions.

**Advanced registration is required!**

[CLICK HERE TO REGISTER](#)

**MODERATOR:**  
Gerald Niedzwiecki, MD  
OEIS

**PANELISTS:**  
**Jason Greis**  
Partner, Benesch  
**Murad Hussain**  
Partner, Arnold & Porter

**Matthew Phillips**  
Managing Director  
City Capital Advisors

**Paul Rudolf, MD**  
Senior Counsel  
Arnold & Porter

Join us at the OEIS Annual Meeting for the Legal Session on Thursday, May 18, 2023 | 12:00 - 2:15 PM EST  
\*Early Bird discount ends on April 3, 2023

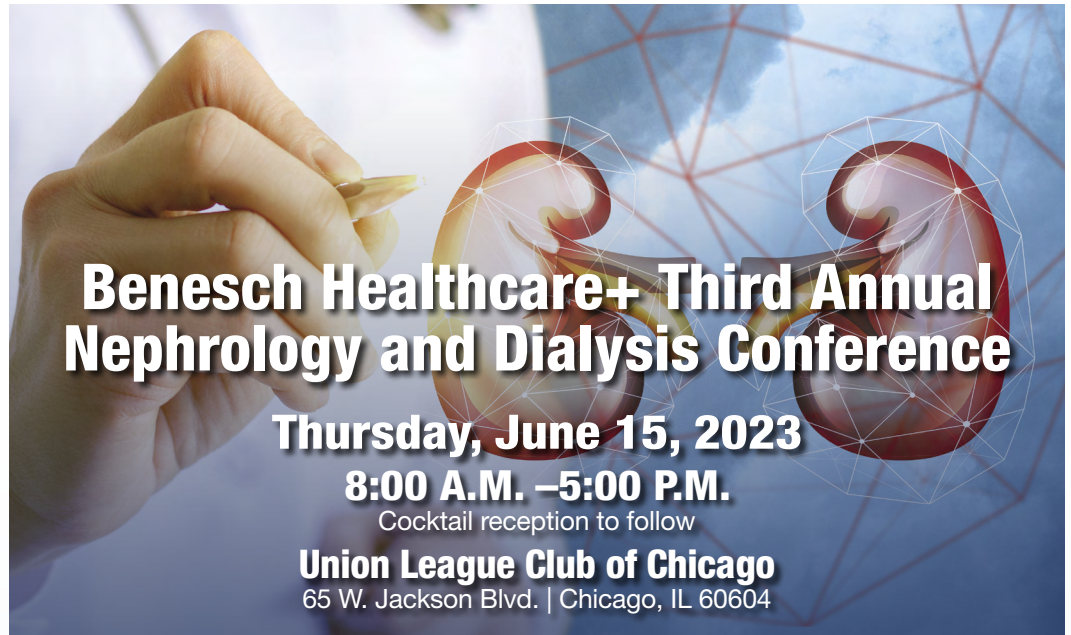
#### LEGAL JEOPARDY: WHAT ARE OUR COMPLIANCE RISKS?

This interactive session will use a game show style question and answer hypothetical format sure to keep you guessing and engaged! Join our panel of compliance, transactional and white-collar attorneys who will explore a wide variety of common billing and overpayment, contractual, corporate, litigation and tax matters that frequently arise in physician practices and OBLs.

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**Dialysis &  
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**Benesch Healthcare+ Third Annual  
Nephrology and Dialysis Conference**

**Thursday, June 15, 2023**

**8:00 A.M. –5:00 P.M.**

Cocktail reception to follow

**Union League Club of Chicago**

65 W. Jackson Blvd. | Chicago, IL 60604

Please join us for this full-day conference addressing business and legal issues facing nephrology and dialysis providers. Hear from industry leaders discussing current and future trends in care delivery, business and payment models and legal and regulatory issues.

Please contact MEGAN THOMAS ([mthomas@beneschlaw.com](mailto:mthomas@beneschlaw.com)) for more information about this event or if you require assistance.

**Exhibitor Opportunities**

**Exhibitor Space**.....\$1000 Per Table

Exhibitor tables will be set up in a space with high foot traffic from the conference.

Includes:

- Logo placement on printed materials
- Company overview/contact information within handout
- Two free conference registrations
- List of attendees to be mailed out a week prior to conference

**For more information or to sign up for an exhibitor space or sponsorship, please contact:**

MEGAN THOMAS / [mthomas@beneschlaw.com](mailto:mthomas@beneschlaw.com)

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis Practices

#### Nephrology Burnout Study

Suzanne Przybyla is the Executive Director of Mid-Atlantic Nephrology Associates, P.A. in Baltimore, Maryland. She is also a Doctor of Business Administration candidate at the LeBow School of Business at Drexel University (Philadelphia, PA).

Suzanne is studying the topic of Nephrologist Burnout and Coping Strategies used during the COVID-19 pandemic. This study is directed at clinical nephrologists caring for patients in the United States. The topic is of great importance since so few studies focus solely on nephrologists and burnout.

Suzanne would greatly appreciate any nephrologists taking some time to provide their input. The survey takes 8 minutes on average to complete, and any nephrologists completing the survey will be entered to win a \$100 Amazon gift card. Nephrologists can either send Suzanne a screenshot of the "Thank You" screen at the end of the survey or send written confirmation of completion via e-mail to: [sp3739@drexel.edu](mailto:sp3739@drexel.edu).

Click [here](#) for the survey or use the QR code below.



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#### MA judge rules former American Renal Associates execs must answer to fraud allegations from SEC

The company's former CFO, CAO and controller sought dismissal of a civil action from the SEC, which alleges they played significant roles in a \$39-million fraud perpetrated in 2017 and 2018. A federal judge in Boston [disagreed](#), meaning the three will have to face the regulator's accusations. After an initial inquiry from the SEC, [American Renal Associates](#) (ARA) found its revenue was overstated by more than \$17 million in 2017 and by more than \$22 million the next year. ARA settled with the SEC for \$2 million without admitting or denying guilt but the individuals filed dismissal bids to have the individual cases tossed out.

SOURCE: Law360 (sub. rec.)

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**Dialysis &  
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## Nephrology and Dialysis Practices (cont'd)

### [ME trial reminiscent of DaVita anti-poaching case that also ended in acquittal; DOJ strategy questioned](#)

In Apr. 2022, juries in TX and CO acquitted healthcare companies charged by the DOJ's Antitrust Division. In the CO case, DaVita and its former CEO were found not guilty of conspiring with other companies not to hire each other's top executives. A jury in ME [returned](#) not guilty verdicts to all counts against four operators of home health agencies they conspired to restrict trade in violation of the Sherman Act. Since the Antitrust Division began a crackdown on alleged wage-fixing and no-poach agreements, the DOJ only has a single conviction for lying to investigators to show for it. A legal expert suggests juries may be reluctant to convict individuals in these sorts of cases, as they may believe the charges don't warrant jail time. As well, conspiracies can be difficult to prove without credible insider evidence. Despite the setbacks, the DOJ is forging ahead, with DaVita at the center of another no-poaching case in IL involving Surgical Care Associates and Tenet Healthcare.

SOURCE: Law360 (sub. rec.)

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### [DC's AG investigating AKF's relationships with DaVita, Fresenius](#)

In SEC filings, both [DaVita](#) (pp. F-31) and [Fresenius](#) (pp. F-88) revealed the Attorney General for DC was investigating the dialysis providers for their dealings with the American Kidney Fund (AKF). DC authorities are looking into donations the company made to the non-profit and whether AKF was steering patients to them as recompense. This practice is legal as long as the charity is directing patients based on financial need. Both DaVita and Fresenius indicated they're cooperating with the DC AG on its probes.

SOURCE: Fierce Healthcare

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### [AMA, healthcare groups call on Congress to tie Medicare payment rates more closely to inflation](#)

The American Medical Association (AMA) commends MedPac for advocating for a physician payment update tied to 50% of the Medicare Economic Index. However, the physicians contend the move won't go far enough to overcome years of real and effective payment cuts, with practices' economic situations further impacted by the pandemic and growing inflation. The AMA and 134 other healthcare organizations [want](#) Congress for a full inflation-based update to mitigate the eroding value of Medicare payments.

SOURCE: AMA

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis Practices (cont'd)

#### Federal government proposes ending monopoly of non-profit in charge of organ donations

The Health Resources and Services Administration (HRSA) is looking into how the U.S. organ transplant system is run and whether the current system would benefit from a sharing of responsibility among several entities. The [United Network for Organ Sharing](#) (UNOS) has had monopoly power over the organ donation system since it was created in 1984. However, UNOS is criticized for long waiting lists for donated organs, with data for poor and minority patients worse than for their white and affluent counterparts. The HRSA intends to allow other organizations to bid on contracts to oversee certain aspects of the transplant system. One barrier to the proposal is the law setting up the federal network designated UNOS as the sole organization responsible, so any change would require Congress to amend the original act.

Related: [American Society of Nephrology statement on Health Resources and Services Administration initiative to modernize Organ Procurement and Transplantation Network](#) – ASN

SOURCE: The Washington Post

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#### Research suggests rise in MA enrollments by ESRD patients spurring kidney care VBAs

Healthcare business consultant [Avalere found](#) when ESRD patients became eligible for Medicare Advantage (MA) plans in 2021, the share of Medicare beneficiaries with ESRD rose from 23% to 30%, a YoY increase of 25%. At the same time, the number of ESRD patients enrolled in Medicare fee-for-service (FFS) fell by 21%. Avalere noted payment rates for MA plans for dialysis were lower than for FFS. To counter this, MA plans are forming value-based agreements with kidney care management companies to share financial risks associated with patient management while sharing payments for any savings accrued from reducing the costs of ESRD and CKD care.

SOURCE: Health Payer Intelligence

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#### VA guarantees Medigap access to patients under 65 with ESRD

Governor Glenn Youngkin signed [SB 1409](#) and [HB 1640](#) into law, which extends Medigap access to patients with ESRD under the age of 65. Advocacy group Dialysis Patient Citizens says the law should only increase premiums for Virginians with Medigap coverage by about \$2. Before the legislation was proposed, Medicare coverage only covered 80% of ESRD care, leaving patients to pay out-of-pocket or pay into a Medigap plan. For patients under the age of 65, Dialysis Patient Citizens says those premiums could cost \$6,460 annually.

SOURCE: Dialysis Patient Citizens

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis Practices (cont'd)

#### [Fresenius initiates home dialysis training program in Indianapolis](#)

Four patients are enrolled in the pilot program in which they'll learn about home dialysis from a Fresenius care training team. The program is meant to speed up the transition for patients on hemodialysis and peritoneal dialysis from an in-clinic to an at-home modality. Fresenius states two people completed their transition to home dialysis since the unit opened this year, adding two people were hired to work exclusively in home training.

SOURCE: Fresenius Medical Care

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#### [Fresenius donates \\$425K to groups promoting healthy eating, habits](#)

Fresenius is donating \$275,000 to the Boys & Girls Clubs of America to continue the Kidney Kid Program at clubs nationwide. It provides insights into the benefits of healthy eating habits and exercise for kidney health. Fresenius is giving \$150,000 to the [Food is Medicine Coalition](#), which provides medically tailored meals to patients with complex health needs, including CKD.

SOURCE: Fresenius Medical Care

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#### [Interwell enters into JV with Chicago-based health system to deliver primary care to ESKD patients](#)

[Oak St. Health](#) and [Interwell Health](#) launched OakWell to provide primary care to patients at dialysis centers. Oak St. is a Medicare-focused primary care provider that operates 170 centers across 21 states and is the subject of a \$10.6-billion takeover bid by CVS. ESKD patients will receive coordinated care from a primary care team and nephrologists to reduce hospitalizations and increase kidney transplantations in a bid to lower the total cost of care. OakWell will begin offering services at dialysis centers in Chicago, Houston and Dallas-Fort Worth in Q3.

SOURCE: Oak St. Health

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#### [Duo Health providing CKD, ESKD care for members of AZ specialty health insurer](#)

[Gold Kidney Health Plan](#) initiated Medicare Advantage chronic care special needs health plans for Medicare-eligible AZ residents with ESKD, diabetes and other chronic conditions. Members will have access to [Duo Health's](#) patient-directed technology and community-based medical groups that enable a transition to value-based care.

SOURCE: Duo Health

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis Practices (cont'd)

#### [Somatus inks value-based kidney care partnership with IN nephrology practice](#)

Duneland Nephrology will leverage Somatus' expertise and technology to enhance care for its CKD and ESKD patients in northwest IN. Patients will have access to Somatus' multidisciplinary local care teams to deliver whole-person care through a value-based care agreement, supporting patients with different types of dialysis modalities in their homes.

SOURCE: Somatus

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#### [Somatus piloting nurse navigator system at northern VA health group](#)

Inova Health System installed Somatus' nurse navigator program at five hospitals in northern VA to improve collaboration between patients with kidney disease and care providers. By increasing face-to-face interactions with RNs, Inova hopes to empower patients, reduce avoidable re-admissions and decrease lengths of stay in hospital. The program also promotes care transition post-discharge and coordinates follow-up appointments, creating an extension of care for nephrologists and primary care physicians.

SOURCE: Somatus

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#### [Strive Health reports doubled CKCC footprint over past year; claims \\$2.5B UM](#)

Strive Health estimates serving over 73,000 CKD patients through partnerships with nephrologists and direct care arrangements. The value-based kidney care company works with over 500 nephrology providers in 10 states in employing the CKCC payment model, primarily through kidney care entities (KCE). Strive claims its holistic, team-driven business model trimmed the total cost of care by 20% and reduced hospital admissions by 42%.

SOURCE: Strive Health

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#### [Strive named by Forbes as among best startups in U.S. for second straight year](#)

Forbes named kidney care provider Strive Health among the 500 best startup employers in the country for the second year in a row. Companies were rated according to employee satisfaction, employer reputation and growth. Strive CPO Dave Thornton notes it's the fifth "best place to work" designation the company has earned in the past year.

SOURCE: Strive Health

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis Practices (cont'd)

#### [U.S. Renal Care cited by Newsweek for efforts in workplace diversity, inclusion](#)

The kidney care provider was named to two lists by Newsweek:

1. [America's Greatest Workplaces for Women 2023](#), receiving four-and-a-half stars out of five; and
2. [America's Greatest Workplaces 2023 for Diversity](#), receiving four stars out of five.

Sarrah Johnson, U.S. Renal Care's Chief Diversity & Inclusion Officer, says the dual recognition reflects the company's desire for a workforce that mirrors the communities it serves.

SOURCE: U.S. Renal Care

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#### [How Cigna Saves Millions by Having Its Doctors Reject Claims Without Reading Them](#)

Internal documents and former company executives reveal how Cigna doctors reject patients' claims without opening their files. "We literally click and submit," one former company doctor said.

SOURCE: ProPublica

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## Dialysis & Nephrology DIGEST

### VAC, ASC and Office-Based Labs

#### [Panoramic Health acquires Houston VAC to fuel Texas expansion](#)

Financial terms weren't released but AZ-based [Panoramic Health](#) acquired the [North Shepherd Dialysis Access Center from Nephrology, Dialysis & Transplantation Associates, P.A at The Kidney Institute](#) (TKI). A separate partnership agreement between the two firms means Panoramic Health's value-based care system will be employed at TKI's seven clinics in Greater Houston. Panoramic intends to convert the North Shepherd VAC into a fully-licensed ASC.

SOURCE: Panoramic Health

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#### [Former SCA workers want DOJ documents from failed anti-poach case involving DaVita for their civil suit](#)

A [memorandum](#) filed in U.S. District Court demands the DOJ hand over files relating to its failed antitrust case against the dialysis provider. Former Surgical Care Associates employees proposed a class action, alleging an agreement between SCA and DaVita suppressed wages and reduced competition for labor. The plaintiffs claim the documents for grand jury records related to criminal charges against DaVita and its former CEO Kent Thiry by the DOJ could have a bearing on their case. Federal prosecutors says the request for 1.8 million records is onerous and contains material that went beyond the former workers' complaint. The plaintiffs' response was that it wouldn't disclose any material obtained via grand jury subpoenas.

SOURCE: Law360 (sub. rec.)

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#### [FL healthcare organization names former SCA exec as head of ASCs](#)

Orlando Health named [Colleen Heeter](#) as VP for its ASCs. She was formerly the regional executive director for ambulatory services at Prime Healthcare of Kansas City, MO and VP of Operations at Surgical Care Affiliates. Heeter will be responsible for increasing Orlando Health's ASC network across FL and the southeastern U.S.

SOURCE: Orlando Health

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For more information regarding our nephrology, dialysis  
and office-based lab experience, or  
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