



Partner

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609-580-3702

**Princeton, NJ**

**Practice Areas**

Government Affairs

Health Care

Nonprofit Law

**Admitted**

New Jersey

Pennsylvania

**Education**

Rider University

Bachelor of Science in Commerce, 1973

Syracuse University

M.P.A., Maxwell School, 1974

Rutgers Law School

Juris Doctor, 1992

As Chair of Archer's Health Care Law Practice Group, Mr. Fogg focuses on representing health care providers in acute care and long term care in regulatory and compliance matters as well as in complex transactional matters. Bob's practice includes handling state and federal administrative appeals related to enforcement and recovery actions; licensing and certification applications and advice; nursing home survey and certification issues; managed care contracting and reimbursement issues; defending governmental allegations of health care fraud and abuse; corporate compliance advice and services, and home health and hospice agency compliance matters. Mr. Fogg's clients include hospital systems, rehabilitation hospitals, long term care providers, adult day care centers, home health agencies, federally-qualified health centers, ambulatory surgery centers, specialty ambulatory care facilities; and physician groups and specialty practices.

Prior to entering private practice, Mr. Fogg served as the Director of Licensing and Certification at the New Jersey Department of Health. In this role, Mr. Fogg was responsible for overseeing the enforcement, regulation, and development of licensing requirements for nearly 1100 health care facilities in the State of New Jersey. Mr. Fogg also directed the Office of Managed Care, served as an executive assistant in the Office of the Commissioner, and as assistant director of New Jersey's Certificate of Need and Health Planning program. Mr. Fogg also has extensive governmental and private practice experience in mental health and addiction services matters.

Mr. Fogg authored the national practice guide "Nursing Home Regulations" for the Thompson Publishing Group, covering the survey, certification, and enforcement regulations governing skilled nursing facilities throughout the country, and served as its editor-in-chief of its monthly newsletter service for over 15 years. He lectures frequently on health care regulatory matters and has authored numerous articles.

**Representative Experience**

- Preparing complex and successful Certificate of Need applications for general hospital relocations and new tertiary care services, as well as for specialized nursing facility services and assisted living facilities.
- Challenging nursing home survey and certification enforcement and survey findings by the New Jersey Department of Health and CMS through informal dispute resolution procedures and Departmental Appeals Board hearings.
- Successfully defending and resolving multi-million dollar recovery actions by the New Jersey Medicaid Fraud Division and coordinating criminal defense with the firm's white collar defense attorneys of allegations by the Medicaid Fraud Prosecution Unit of the Attorney General's office.

- Successfully appealing adverse Certificate of Need, licensing and reimbursement determinations through administrative, chancery, and appellate level appeals including the New Jersey Supreme Court.
- Negotiating complex sales agreements between nursing home purchasers and sellers, and obtaining all related regulatory approvals and Medicare and Medicaid certifications.
- Negotiating improved managed care Medicaid and MLTSS contracts on behalf of New Jersey's nursing home and adult medical day care industry associations.
- Obtaining state and federal regulatory approvals for major hospital systems acquiring or creating off-site hospital-based clinics.
- Facilitating sales of long term care facilities for sellers and navigating sales or mergers of financially-distressed non-profit providers.
- Representing Continuing Care Retirement Communities in regulatory approvals and preparation of annual reports and disclosure statements.
- Representing Health Care Service Firms in obtaining registrations, changes of ownership, and annual filings.
- Advising acute care and rehabilitation hospitals on charity care, HIPAA, electronic medical record systems, medical staff, and other complex matters.
- Serving as general counsel to the leading family planning agency provider in the State of New Jersey.
- Negotiating agreements between Federally-qualified health centers and hospitals for clinic and graduate medical education relationships.
- Handling the regulatory approvals and other compliance matters in relation to the relocation, construction, and closure of acute care hospitals.
- Coordinating legal work related to new construction and financing involving land use, lender opinions, Stark and anti-kickback analyses and opinions, and reimbursement and accreditation issues.
- Negotiating and drafting post-acute and preferred provider network participation agreements.
- Litigation with management care companies related to termination of network provider agreements, audit recoveries, and underpayments.
- Serving as local counsel in transactions involving national nursing home and assisted living chains with facilities in New Jersey, handling regulatory approvals, financing opinions, and local permits and approvals.

### **Professional and Community Involvement**

- Bob is a member of the American Health Lawyers Association .
- Member of the Health and Hospital Section of the New Jersey Bar Association.
- Serves on professional advisory boards for LeadingAge New Jersey and Springpoint Senior Living.

### **Awards and Recognition**

- Named to Best Lawyers in America for Health Care Law (2011-2022)
- South Jersey Magazine, "Awesome Attorneys", Healthcare, 2010-2021
- Named a "Top Lawyer" for Healthcare by SJ Magazine (2019, 2021)
- New Jersey Monthly Magazine: Top Lawyers in New Jersey, Health Care, 2011, 2014

- Corporate Counsel Magazine: Top Lawyers, 2011

## **Articles and Presentations**

- "The Sale of a Health Care Facility"; presentation to the NJSBA's Health Law Institute, November 1, 2013 with Lisa Stewart Albright
- "Managed Care Transitions and Public Policy Update"; presentation to the New Jersey Adult Medical Day Care Association Winter Conference, January 2012
- New Jersey Implements Its Medicaid Recovery Audit Contractor ("RAC") Program Ahead of Schedule; Archer Client Alert; August 2011
- New Role for Quality Improvement Organizations Raises the Ante for Medicare Providers, Article in the New Jersey State Bar Association Health and Hospital Newsletter, April 2011
- An Ounce of Prevention- Safeguarding Against Medicaid Recoveries; Article in the New Jersey Adult Medical Day Care Association Newsletter, February 2011
- Health Care Providers Beware: Fraud And Abuse Laws Are Strengthened Under The 2010 Health Care Reform Law; Article in Mercer Business, September 2010
- The Third Circuit Permits Plaintiffs To Sue Governmental Nursing Homes Under Section 1983 Civil Rights Law; New Jersey State Bar Association Health and Hospital Newsletter, April 2010
- "Ambulatory Surgery Services in New Jersey": Presentation at the Pennsylvania Bar Institute Health Law Seminar, March, 2010
- Health Care Reform Act to Accelerate Collection of Nursing Home Penalties and Require Reporting of Crimes, Nursing Home Regulations, June 2010