

# Snell & Wilmer

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## **Paul J. Giancola**

Of Counsel | Phoenix

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### **Main Bio**

Paul Giancola's practice is focused on healthcare compliance, transactions and regulatory matters for healthcare organizations and physicians. These matters include: fraud and abuse compliance (False Claims Act, Stark Law and Anti-Kickback Statute, Medicare billing and coding, and practice compensation structures), and responding to investigations (CMS, AHCCCS, commercial insurers, and the Department of Justice); business transaction structures and agreements for joint ventures, management and/or professional services, and outpatient treatment facilities and ambulatory surgery centers; and, among things, medical staff matters involving privileges and peer review, licensing board investigations, and HIPAA privacy and security compliance and investigations. He has often served as a mediator and arbitrator.

### **Representative Experience**

Paul's healthcare practice encompasses a wide range of legal services that are provided in a rapidly changing and highly regulated industry. These include:

- Transaction compliance and counseling of fraud and abuse laws in mergers and acquisitions by hospitals and healthcare companies; designing and negotiating physician-hospital alignment arrangements; joint venture arrangements among healthcare providers; and buy-out agreements.
- Defended and managed numerous audits and investigations of potential overpayments under the False Claims Act, Anti-Kickback Statute, EKRA, Sunshine Act, Stark Law and other fraud and abuse violations for laboratories, hospitals, and physician practices.
- Advising on and making self-disclosures and negotiation of settlements and corporate integrity agreements with government agencies, such as Arizona's AHCCCS OIG, DOJ, and the HHS OIG.
- Medicare and Medicaid reimbursement counseling.
- Advising and providing representation on medical staff matters for hospitals, healthcare plans, and physicians, including peer review, quality assurance, bylaws review, and fair hearings.
- Privacy and security compliance, including counseling clients on HIPAA and HITECH; internal compliance audits; responding to numerous OCR investigations; and managing and reporting data breaches.
- Regulatory and strategic counseling related to proposed business models.
- Counseling senior living and post-acute care facilities, including skilled nursing facilities, assisted living facilities, home care and hospice.

- Serving as outside counsel for multi and single specialty physician groups, management companies, ambulatory surgery centers and ancillary service providers.
- Represented hundreds of physicians in all aspects of medical board licensing investigations.
- Conducted hundreds of mediations and a dozen arbitrations.
- Drafted healthcare legislation impacting tort reform, surprise medical bills, hospital satellite locations and remote pharmacies.

## Education

- Syracuse University College of Law (J.D., cum laude)
  - Executive Editor, Syracuse Law Review
  - Judicial Clerkship Recommendation
- New York University (Certificate in Physical Therapy)
- State University of New York at Stony Brook (B.S., Biology)
- National Institute for Trial Advocacy Diploma
- CPR Institute of Dispute Resolution, Certified Mediator
- AHA, Health Care Arbitration

## Professional Memberships & Activities

- Sandra Day O'Connor College of Law at Arizona State University, Adjunct Professor
  - Health Care Fraud Investigations & Litigation (2011-2023)
  - The Litigation Experience (2011-2015)
- University of Arizona College of Medicine-Phoenix, Lecturer (2013-present)
- American Health Lawyers Association (1994-present)
- Arizona Association of Health Care Lawyers (1992-present)
  - Board of Directors (2000-2023)
  - President (2003-2005)
- State Bar of Arizona (1987-present)
  - Civil Practice and Procedure Committee (1992-1995)
- Tort & Insurance Law Journal, Associate Editor (1986-1989); Executive Editor (1990-1991); Editor-in-Chief (1991-1993)
- Trial Lawyers Quarterly, Contributing Editor (1982-1988)
- Syracuse University College of Law, Adjunct Professor of Law, Scientific Litigation (1985)

## Representative Presentations & Publications

- "Stress, Anxiety and Lawsuits," Presenter, American College of Mohs Surgery, Annual Meeting, Phoenix, Arizona (May 4, 2024)
- "What Residents Need to Know About Medical Employment Contracting and Non-Compete Clauses," Presenter, Mayo Clinic-Arizona (March 27, 2024)
- "Everything You Wanted to Know About the Law and Medicine (But Were Too Afraid to Ask)," Presenter, Webinar, University of Arizona College of Medicine-Phoenix (February 27, 2024)

- ["HHS Establishes Certification Requirements for Artificial Intelligence and Machine Learning Software Developers,"](#) Co-Author, Snell & Wilmer Legal Alert (January 17, 2024)
- "Health Care Fraud & Abuse and Real Estate Transactions," presented to hospital Legal Department, (October 27, 2023)
- "Basics of Medical Staff Credentialing With an Eye of Peer Review," 2023 Arizona CAH & Rural Health Clinic Summit, Flagstaff, Arizona (June 5, 2023)
- ["CMS Proposes Changes to Medicare Overpayment Rules To Align With False Claims Act 'Knowledge' Standard,"](#) Co-Author, Snell & Wilmer Legal Alert (January 10, 2023)
- ["Post-Roe Access to Abortion in Arizona: Implications for Patients and Providers,"](#) Co-Author, Snell & Wilmer Health Law Checkup (June 28, 2022)
- "EMTALA Refresher and Trends," Presenter, Arizona Risk Management Collaborative (March 30, 2022)
- "Prosecuting and Defending False Claims Act Cases: Points of Contention and Collaboration," Presenter, Arizona Society of Healthcare Attorneys (AzHSA) Health Law Conference (February 25, 2022)
- "Selected Cybersecurity Issues for Attorneys," Presenter, Arizona Society of Healthcare Attorneys (February 8, 2022)
- ["Supreme Court Gives the OK to CMS Vaccine Mandate,"](#) Co-Author, Snell & Wilmer Legal Alert (January 13, 2022)
- "EMTALA, HIPAA and Other Legal Minefields," Webinar Presentation, University of Arizona College of Medicine – Phoenix (January 6, 2022)
- "Surprise Billing & Price Transparency Overview," Co-Presenter, Arizona Society of Healthcare Attorneys (December 7, 2021)
- ["Issues in Medical Informed Consent: The Effects of Mental Health Status and Surrogate Decision-Makers,"](#) Co-Author, Arizona Attorney Magazine (December 2021)
- ["HHS Office of Inspector General Issues Important Update to Self-Disclosure Protocol,"](#) Co-Author, Snell & Wilmer Legal Alert (November 11, 2021)
- ["CMS Announces Vaccine Mandate for Healthcare Facilities,"](#) Co-Author, Snell & Wilmer Legal Alert (November 9, 2021)
- ["Update on Arbitration Clauses in Medical Malpractice Cases,"](#) Co-Author, Arizona Society of Healthcare Attorneys (October 20, 2021)
- ["Federal Trade Commission Provides New Guidance on its Health Breach Notification Rule for Health Apps and Connected Devices,"](#) Co-Author, Snell & Wilmer Legal Alert (September 21, 2021)
- ["The Basics of Healthcare Fraud,"](#) Episode Host, CalCurrent Podcast (July 15, 2021)
- "What You Should Know About the New Stark Regulations: Overview of Significant Changes, Group Compensation and Value Based Arrangements," Presenter, Arizona Society of Healthcare Attorneys (June 3, 2021)
- ["Arizona Expands Telehealth Law, Making it Broadest in the Nation,"](#) Co-Author, Snell & Wilmer Legal Alert (May 12, 2021)
- ["Governor Ducey Signs Executive Order 2021-09 Banning Use of Vaccine Passports in Arizona,"](#) Co-Author, Snell & Wilmer Legal Alert (April 26, 2021)

- "Determining Competence," Co-Presenter, Arizona Osteopathic Medical Association, 99th Annual Meeting (April 7-10, 2021)
- ["The Arizona Supreme Court Joins Other States in Ruling that HIPAA Can Be Used to Establish the Standard of Care in a Negligent Disclosure Case,"](#) Co-Author, Snell & Wilmer Legal Alert (March 10, 2021)
- ["McCarron-Ferguson Act Repeal Opens 75 Years of Exemptions for Health Insurers and Sets New Antitrust Enforcement Expectations,"](#) Co-Author, Snell & Wilmer Legal Alert (February 10, 2021)
- "Corporate and Ethical Considerations," Presenter, Arizona Health Law Basics Conference, ASU College of Law (January 13, 2020)
- "Out-of-Network & Surprise Medical Billings: Fundamentals, Cases and Politics," Presenter, Arizona Society of Healthcare Attorneys (November 12, 2019)
- "Risk Management and Confidentiality Minefields," Presenter, Western Regional Meeting of the Federation of State Physician Health Programs (October 18, 2019)
- "The Revised Yates Memo: Individual Accountability in Federal Investigations and Enforcement," Presenter, Arizona Society of Healthcare Attorneys (December 11, 2018)
- "Legal Issues in Transgender Health Care and Patient Bias Against Health Care Providers," Presenter, Arizona Society of Healthcare Attorneys (September 25, 2018)
- ["ACI/CCRE Compliance Program,"](#) Co-Presenter (January 30, 2018)
- ["The Yates Memo: Individual Accountability in Federal Investigations and Enforcement, A Primer for In-House Counsel,"](#) Presenter (January 23, 2018)
- ["HIPAA Update Training,"](#) Presenter (January 23, 2018)
- ["Policy Corner: Balance Billing Curtailed by New AZ Law,"](#) Author, Arizona Physician Magazine (June 2017)
- ["Arizona Enacts "Surprise Out-Of-Network" Balance Billing Law,"](#) Author, Snell & Wilmer Health Law Checkup Blog (June 8, 2017)
- "Health Law Forum", Panel Member, Maricopa County Medical Society (May 18, 2017)
- "Understanding MACRA (Medicare Access & Chip Reauthorization Act of 2015): Real Solutions for Real Needs," Panel Member, Perch (January 25, 2017)
- "Healthcare Law Update: Fraud and Abuse, HIPAA and Other Legal Minefields," Presenter, Arizona Orthopaedic Society 2016 Annual Meeting (November 5, 2016)
- ["Direct-to-Consumer Marketing: 20 Years Later,"](#) Author, AZMedicine (Fall 2016)
- ["Leveling the Playing Field: The Impact of Equalizing Payment for Evaluation & Management Visits on Physician Practice Consolidation,"](#) Author, AZMedicine (Spring 2016)
- "Peer Accountability - What are our obligations when we are faced with unethical colleague behavior?" Speaker, Sedona Scientific Program (April 1, 2016)
- ["New AZ Law on Self Referred Laboratory Testing,"](#) Author, AZMedicine (Fall 2015)
- "Arbitration Clauses in Contracts," Speaker, Arizona Corporate Counsel Forum (October 21, 2015)
- "Anatomy of a Medical Malpractice Lawsuit," Speaker, Banner Orthopedic Residency (September 23, 2015)
- "Surviving a Claims Audit and the Ever Expanding Scope of the False Claims Act," Speaker, Arizona Association of Health Care Lawyers (September 22, 2015)

- "Two Important Developments in Arizona Physician/Medical Staff Law," Speaker, Arizona Association of Health Care Lawyers (July 9, 2015)
- "[MACRA: The Good, the Controversial, and the Uncertain](#)," Author, AZMedicine (Summer 2015)
- "Health Care Reform 2015: Where Are We Now?" Tucson Osteopathic Medical Foundation, Southwestern Conference on Medicine (April 25, 2015)
- "[Are Physicians Evolving Into Shift Workers?](#)," Author, AZMedicine (Spring 2015)
- "Identifying and Assisting the Impaired Healthcare Worker," Panelist, American College of Healthcare Executives, Arizona Healthcare Executives Chapter (Phoenix January 29, 2015 and Tucson March 10, 2015)
- "[Ethical Dilemmas from Physician Ownership Interests in Ancillary Services](#)," Author, AZMedicine (Winter 2014)
- "[Medicare's Hospital Readmissions Reduction Program: Potential Risks for Physicians](#)," Co-Author, AZ Medicine (Fall 2014)
- "Physicians Treating Chronic Pain with Opioid Narcotics Face Multiple Risk Exposures," Author, Medical Liability Monitor, Vol. 39, No. 6 (June 2014)
- "So you Think Divorces are Unpleasant: Minimizing Collateral Damage in Physician Practice Separations," Speaker, Arizona Association of Health Care Lawyers (June 10, 2014)
- "Medicare's Hospital Readmissions Reduction Program: Considerations for Hospital Executives," Co-Author, American College of Healthcare Executives, Arizona Healthcare Executives (2nd Quarter 2014)
- "The Impact of the ACA : How Readmission Penalties will Affect the Healthcare Executive's Mission," Panelist, Arizona Chapter of the American College of Healthcare Executives (May 21, 2014)
- "[Treating Chronic Pain can be Risky for Physicians](#)," Author, AZ Medicine (Spring 2014)
- "Updates in Healthcare Reform – An Employee Benefits and Healthcare Provider Perspectives," Speaker, Association of Corporate Counsel Arizona Chapter (January 21, 2014)
- "[Health Care Reform Expands Physicians' Liability](#)," Author, AZ Medicine (Fall 2013)
- "[Can Accountable Care Organizations Hit the Trifecta: Improve Quality, Reduce Cost, and Increase Physician Compensation?](#)," Author, AZ Medicine (Summer 2013)
- "Breach Notification: The I'm Sorry Rule, Speaker, Arizona Association of Health Care Lawyers" (June 13, 2013)
- "Healthcare Reform: The Business of Expanding Healthcare Benefits and Adding Coverage for up to 30 Million People," Author, AZ Medicine (Spring 2013)
- "Conflicts of Interest: A Forerunner to Healthcare Fraud," Author, AZ Medicine (Fall 2012)
- "Sawbones Blues: Recent Cases & Trends," Speaker, AZ Orthopaedic Society (June 2012)
- "Social Media Malpractice Anyone?," Author, AZ Medicine (Spring 2012)
- "Defending Drug Charges: Drug Abuse and Malprescribing, Anatomy of a Government Investigation," Speaker, American Society of Interventional Pain Physicians (February 2012)
- "Controlled Substances Act of 1970," Speaker, American Society of Interventional Pain Physicians (February 2012)
- "Summary of Fraud and Abuse Statutes & Regulations, Arizona," Co-Author, American Health Lawyers Association (2012)

- "Physician Integration and ACOs - New Dynamics of the Antitrust Law," Author, AZ Medicine (Winter 2011)
- "[Doctors in Disguise? Physician Extenders on the Rise](#)," Author, AZ Medicine (Fall 2011)
- "Vampire Blues—Infectious Disease Litigation," Speaker, AZ Infectious Disease Society (October 2011)
- "Breaking Up Is Hard to Do," Speaker, Southwest Orthopaedic Trauma Association (September 2011)
- "[How to Avoid Becoming a 'Pot Doc': Physicians are the Gatekeepers for Medical Marijuana Use](#)," Author, AZ Medicine (Summer 2011)
- Frequent seminar speaker and author of health care articles
  - Recent presentations include fraud and abuse, HIPAA, healthcare reform, Arizona medical marijuana law, physician extenders, infectious disease litigation, ED on-call obligations for specialists
- Guest Lecturer in Health Law at Arizona State University, Graduate Business School (2002-2003)
- Physicians and Physician Organizations Law Institute, Presenter, American Health Lawyers (2002, 2004)

## Professional Recognition & Awards

- The Best Lawyers in America<sup>®</sup>, Health Care Law (2007-2024)
  - Phoenix Lawyer of the Year, Health Care Law (2018, 2020)
- Chambers USA: America's Leading Lawyers for Business<sup>®</sup>, Healthcare (2015-2023)
- AZ Business Leader, AZ Business Leaders Magazine (2023)
- American Bar Foundation, Fellow (2018)
- American College of Trial Lawyers, Fellow (2004-present)
- Top Rated Lawyers<sup>®</sup>, Health Care Law, Corporate Counsel Magazine (2012)
- Southwest Super Lawyers<sup>®</sup>, Health Care (2007-2022, 2024)
- Lawdragon Top 3000 Leading Lawyers in America (2010-2011)
- Ranking Arizona: The Best of Arizona Attorneys, Alternative Dispute Resolution (2010-2011)
- Arizona's Top Lawyers, AzBusiness Magazine (2010)
- Arizona's Finest Lawyers

## Community Involvement

- Scottsdale Museum of Contemporary Art, Advisory Board (2007-2016), Member (2004-2016), Chair (2007-2010)
- Scottsdale Cultural Council (2007-2011, 2013-2014)
- Partnership for a Drug-Free America, Arizona Chapter Board of Directors (2006-2008)
- Scottsdale Healthcare, Ethics Committee (1990-1993), Institutional Review Committee (1991-1994)

## Previous Professional Experience

- O'Connor, Cavanagh, Anderson, Killingsworth and Beshears, P.A., Senior Member/Shareholder
- Birnbaum and Manaker, P.C., Associate

## Bar Admissions

- Arizona
- District of Columbia (inactive)
- New York

## **Court Admissions**

- Supreme Court of Arizona
- Supreme Court of New York
- United States Court of Appeals, Ninth Circuit
- United States District and Bankruptcy Court, District of Columbia
- United States District Court, District of Arizona
- United States District Court, District of New York