



Jeff

Jeff Duncan Brecht
Shareholder

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Jeff Duncan Brecht represents healthcare companies and providers, with an emphasis on the senior housing, post-acute, and long term care industry.

Jeff helps clients handle regulatory compliance, risk management, HIPAA / privacy issues, employment matters, and complex involuntary discharges, and he defends them in administrative hearings against agency actions and in civil court against wrongful death and other claims.

Practices & Industries

Commercial Litigation
Fiduciary Litigation
Labor, Employment & Benefits
Privacy & Data Security
Senior Living & Long Term Care
Wage & Hour

Education

Northern Illinois University, J.D., *magna cum laude*, 1996

- Law Review, Editor
- Dean's List
- *Corpus Juris Secundum* and *American Jurisprudence*, Property Law and Criminal Law

Illinois State University, M.S., English, 1987

Illinois State University, B.S., English, 1984

Experience

Senior Living & Long Term Care Law

Wrongful Death Civil Lawsuit / DHS Neglect / Abuse Hearing

After defending assisted living community in week-long administrative hearing against Department of Human Services' penalty and finding of abuse related to death of resident, defended same assisted living facility against civil lawsuit wrongful death allegations based on same underlying incident.

Adverse Survey / Statement of Deficiencies — Alleged Sexual Abuse

Represented skilled nursing survey in appeal and independent informal dispute resolution of survey (immediate jeopardy) findings and related imposition of penalties, related to allegations that facility failed to ensure residents were safe from sexual abuse, including alleged resident-on-resident abuse.

Adverse Survey / Statement of Deficiencies — Alleged Neglect Abuse

Represent skilled nursing survey in informal dispute resolution of survey (immediate jeopardy) findings and related imposition of penalties, related to allegations that facility failed to ensure residents were safe from abuse

Admissions

Oregon

Washington

U.S. District Court, District of Oregon

U.S. District Court, Eastern and Western
Districts of Washington

U.S. Court of Appeals, Ninth Circuit

Twitter

https://twitter.com/J_Duncan_Brecht

LinkedIn

<https://www.linkedin.com/in/jeffduncanbrecht/>

through neglect (related to allegations of inadequate care planning and response to change of condition).

Law Enforcement and Nursing Board Investigation Related to Resident's Death

Represented skilled nursing facility and its nurse related to law enforcement and Nursing Board investigation of complaint of alleged crime related to the death of a skilled nursing facility resident.

Negligence / Wrongful Lawsuit

Defended assisted living / memory care community and management company against claims that community negligently failed to take appropriate precautions to address certain risks associated with resident's alleged conditions, including dementia, resulting in an injury that allegedly caused the resident's death.

Complex Involuntary Discharge — Dangerous Resident

Represented skilled nursing facility in administrative hearing where resident was involuntarily discharged from facility for ongoing dangerous conduct that included death threats against facility's administrator and violent conduct directed at vulnerable residents.

Complex Involuntary Discharge — Resident Exceeded Facility's Level of Care

Represented assisted living facility in administrative hearing where resident was involuntarily discharged because resident's complex medical condition had deteriorated to the point where resident required higher level of care that community could provide.

Complex Involuntary Discharge — Resident Non-Payment

Represented assisted living facility in administrative hearing where resident was involuntarily discharged for non-payment of fees, but where resident argued that discharge was nonetheless retaliatory.

Agency Imposition of License Conditions

Defended adult foster home against Department of Human Services in contested case matter to oppose DHS' imposition of conditions on license. Negotiated terms and conditions to lift of conditions.

Employment Law

Combination FMLA Discrimination and Personal Injury Lawsuit

Defended national employer against claim by former employee that employer had unlawfully terminated employee based on employee's FMLA leave and that employer had caused personal injury to terminated employee's infant child.

Disability Discrimination Lawsuit

Defended national employer (and certain management employees) against claim by former employee that employer and management discriminated against, harassed, retaliated against and terminated employee based on employee's alleged disability.

Whistleblower Retaliation Lawsuit

Defended residential care facility employer against former caregiver employee's whistleblower retaliation lawsuit, related to Department of Human Services' investigation of alleged resident abuse. Employee claimed employer retaliated against and terminated employee because employee reported alleged safety and resident abuse violations to the DHS.

Employee Sexual Abuse of Resident

Defended skilled nursing facility against state agency findings that alleged facility had subjected vulnerable facility residents to sexual abuse by failing to take appropriate actions to prevent, detect, investigate and report alleged sexual abuse perpetrated by a rogue former employee/caregiver.

Employee Theft From Employer

Represented national employer to investigate theft by former manager and to recover stolen funds. Worked with law enforcement and prosecuting attorney to obtain arrest and conviction of employee, and to obtain judgement of restitution and restitution payments from employee.

Protection of Employer's Employees — Anti-Harassment Protection Order

Represented administrator of assisted living facility to obtain anti-harassment protection order against involuntarily discharged resident who threatened to murder administrator. Employer also retained security guards related to this matter.

Reporting Employee Misconduct to Regulatory Agencies

Represented northwest employer in analyzing issues related to misconduct committed by former employee who is regulated by various agencies, and assisting employer to through process of reporting to various regulatory

agencies.

Privacy & Data Security / HIPAA Law

Ransomware Attack

Represented skilled nursing facility with respect to a ransomware incident, including investigation of incident, HIPAA breach analysis and notice issues, and appropriate mitigation and response issues.

HIPAA-Related Agreements

Represented national employer in preparation of agreement with medical university for use where medical student interns receiving certain training experiences on client employer's premises, to make sure that HIPAA-based privacy duties are met.

HIPAA Issues Implicated by Witness Subpoena

Represented national senior living and long term care provider with respect to HIPAA and other privacy concerns implicated when its medical staff was subpoenaed to testify as a third-party witness in a lawsuit. Negotiated with counsel in the preparation and entry of an appropriate Protective Order, including appropriate procedures to comply with HIPAA and otherwise comply with privacy rights and duties.

Social Media Policy Development and Implementation

Prepared training materials for use by professional trade group organization with respect to development, implementation and enforcement of appropriate social media policies for HIPAA-covered entities' and other care providers.

HIPAA Compliance / Online Health Application

Prepared HIPAA and other privacy related policies for developer of online-accessed health-related application.

Trusts & Estates / Fiduciary Law

Investigation and Analysis of Financial Abuse Claims

Represented successor trustee of family trustee to conduct investigation of alleged financial elder abuse, allegedly committed by family members/beneficiaries against prior beneficiary (who was a vulnerable person at time of alleged wrongdoing).

Claim Against Fiduciary

Represented beneficiary to investigate trustee misconduct and recover all funds misappropriated by trustee, where trustee financially exploited vulnerable adult beneficiary over a period of years.

Claim Against Co-Beneficiary

Represented beneficiary in preventing co-beneficiary who was criminally convicted of wrongdoing with respect to financial elder abuse from unjustly profiting from that criminal conduct.

Professional Guardian — Informed Consent Services for Vulnerable Persons

In the context of contested case administrative hearings, represented vulnerable persons who lack capacity, through their court-appointed professional guardian, in dispute against state agency, related to rights of vulnerable persons to retain and pay a guardian to make their informed consent medical decisions.

Business Disputes

Lease Dispute

Represented national owner of independent living communities in lawsuit related to dispute between resident, family trust and community related to lease rights and duties, including right to occupy premises and rights to payments based on sale of right to occupy property.

Insurance Reimbursement Dispute

Represented national senior living and long term care owners against claim processing contractor related to processor's negligent and untimely claims processing and unpaid claims.

Judgement — Unpaid Fees

Represented national owner of nursing communities to obtain judgment against estate of former resident to collect unpaid fees for services provided to resident.

Commercial Property Damage

Represent professional contractor in claims against business (and related insurance company) related to property damage caused by operator of business' motorized vessel which was operated at excessive speed in a no-wake zone.

Community Involvement

American Health Lawyers Association, Member

Oregon Health Care Association, Member

Washington Health Care Association, Member

LeadingAge Oregon, Member

Oregon State Bar Association, Member

Washington State Bar Association, Member

Oregon State Bar Business Litigation Section, Executive Committee
Member

Thought Leadership

September 15, 2020 | Event / CLE

Risk Management and Compliance Strategies in a COVID World
Oregon Health Care Association | Virtual Annual Convention

August 6, 2020 | Event / CLE

Employment Law in a COVID-19 World: Employee Testing, Sick Leave and
More
Oregon Health Care Association Senior Housing and Independent Living
Conference | Virtual

March 2, 2020 | Publication

Legal Considerations for Senior Care and Living Providers in Light of COVID-
19
COVID-19 Resource

February 19, 2020 | News

Brecht Quoted in *McKnight's Long Term Care News* Article 'Expert Warns of
Bigger Fines for Leave-Law Violations if Communication, Training Don't
Improve'
In the News

January 22, 2020 | Event / CLE

Employment Law Workshop
Oregon Health Care Association | Portland, Oregon

November 21, 2019 | News

Lane Powell Receives Oregon Health Care Association's Outstanding
Business Partner of the Year Award
Awards & Honors

November 20, 2019 | Event / CLE

Family Medical Leave Act: Key Issues and Best Practices for Senior Living
Employers
Oregon Health Care Association's Annual Conference | Portland, Oregon

November 19, 2019 | Event / CLE

Best Practices for Involuntary Discharge of Residents
Oregon Health Care Association's Annual Conference | Portland, Oregon

November 4, 2019 | Event / CLE

Let's Get Digital: Privacy & Data Security Best Practices in the Workplace
Oregon Bureau of Labor and Industries 35th Annual Employment Law
Conference | Portland, Oregon

October 10, 2019 | Event / CLE

Hot Topics in Life Planned Communities
LeadingAge Oregon Annual Leadership Conference | Agate Beach, Oregon

August 5, 2019 | News

Lane Powell Launches Cyber Health Assessment Service Offering
Firm Announcement

July 16, 2019 | Event / CLE

Employment Hot Topics and Best Practices for In-Home Care and Home
Health Agencies
Oregon Health Care Association In-Home Care Committee Meeting |
Portland, Oregon

May 22, 2019 | Event / CLE

Death With Dignity Issues for Skilled Nursing and Assisted Living
Communities
Washington Health Care Association | Vancouver, Washington

May 16, 2019 | Event / CLE

The Dos and Don'ts of the Post-Survey Process
LeadingAge Oregon | Portland, Oregon

May 1, 2019 | Event / CLE

36th Annual 'Best Practices for Best Employers™' Labor & Employment Seminar
Lane Powell Seminar | Portland, Oregon

April 17, 2019 | Event / CLE

Involuntary Discharge of Residents: Challenges, Considerations and Best Practices
Oregon Health Care Association Social Services Director Conference | Portland, Oregon

April 16, 2019 | Event / CLE

HIPAA Protocols and Procedures for In-Home Care Agencies
Oregon Health Care Association In-Home Care Conference | Portland, Oregon

March 7, 2019 | Event / CLE

Involuntary Discharge of Residents: Challenges, Considerations and Best Practices
Oregon Health Care Association Spring Expo | Salem, Oregon

November 1, 2018 | Event / CLE

Privacy & Data Security in the Workplace: Issues and Best Practices for Employers
Bureau of Labor & Industries | Portland, Oregon

September 27, 2018 | Event / CLE

The Confluence of Media Relations and Law in Senior Living and Care
LeadingAge | Portland, Oregon

September 17, 2018 | Event / CLE

Privacy and Data Security for Senior Living Employers: Cyber Threats in Your Workplace
Oregon Health Care Association | Eugene, Oregon

June 6, 2018 | Event / CLE

35th Annual 'Best Practices for Best Employers™' Labor & Employment Seminar
Lane Powell Seminar | Portland, Oregon

May 20-23 | Event / CLE

2018 LeadingAge Oregon Annual Conference
LeadingAge Oregon | Redmond, Oregon

April 4, 2018 | Event / CLE

Senior Living Administrator Training: Resident Rights, Decision Making
Washington Health Care Association | Webinar

March 22, 2018 | Event / CLE

Perfect Raincoats: Planning for Changing Seasons
Lane Powell Beneficiaries & Brews Seminar | Portland, Oregon

March 1, 2018 | Event / CLE

'Lucky to be in LTC' Spring Expo
Oregon Health Care Association | Eugene, Oregon

February 1, 2018 | Publication

Cyber-Threat Reduction: How Employee Policies and Practices Can Help
Senior Living and Long Term Care Employers Bolster Privacy and Data
Security
PALS Advisor

January 19, 2018 | Event / CLE

Fair Housing Act Compliance In-House Training
Continuing Care Retirement Community | Oregon

January 3, 2018 | News

Congratulations to Lane Powell's Newest Shareholders
Firm Announcement

November 6, 2017 | Event / CLE

Privacy and Data Security for Employers: Cyber Threats in Your Workplace
Oregon Bureau of Labor and Industries | Portland, Oregon

October 31, 2017 | Event / CLE

Legal Implications of Social Media Usage by Caregivers and Families
Oregon Health Care Association | Webinar

July 12, 2017 | Publication

Health Information Data Security: Low-Tech Action in the Trenches to
Thwart High-Tech Threats

Oregon Business Magazine

May 22, 2017 | Event / CLE

Employment Law for Senior Living and Long Term Care Employers: Hot Issues on Hiring, Discipline and Whistleblowing
LeadingAge Oregon | Redmond, Oregon

May 11, 2017 | Event / CLE

Social Media in Senior Living: The Intersection of Marketing and Privacy
Oregon Health Care Association | Portland, Oregon

April 3, 2017 | Publication

Ransomware and Long Term Care: How the Threat of Holding Patient Records Hostage Impacts HIPAA Analysis
PALS

March 8, 2017 | Event / CLE

Oregon Health Care Association Spring Expo
Oregon Health Care Association | Salem, Oregon

December 21, 2016 | Publication

OCR's 2016 Ransomware 'Guidance': A Health Care Provider's New Best Friend?
Health Care Liability & Litigation

November 15, 2016 | Event / CLE

Whistleblowing and Employee Complaints: What Every Oregon Employer Should Know (and Do)
Oregon Bureau of Labor and Industries | Portland, Oregon

November 7, 2016 | Publication

Ransomware Cyber Security Threat Tests Providers' Defenses
Provider Magazine

October 26, 2016 | Event / CLE

Legal Implications of Social Media Usage by Caregivers and Families
Oregon Health Care Association | Webinar

September 19, 2016 | Event / CLE

Employment Law for Employers: Hot Issues on Hiring, Discipline and Workers Compensation
Oregon Health Care Association | Portland, Oregon

May 5, 2016 | Publication

Increased Ransomware Attacks and Phase 2 HIPAA Audits: Two Closely-Related Issues for Long Term Care Providers

Lane Powell White Paper

March 15, 2016 | Publication

Oregon's Statutory Peer Review Privilege for Health Care Providers: What It Is and How to Not Waive It

Litigation Journal

March 3, 2016 | Event / CLE

Modern Technology in LTC: Uses and Regulatory Implications
Oregon Health Care Association | Eugene, Oregon

February 12, 2016 | Publication

Unlawful Trade Practices, Investigations and Claims: Are Long Term Care Providers at Risk?

Lane Powell White Paper

February 12, 2016 | Publication

CMS Has Added a New Five-star Ratings Tool to Help Patients Compare and Choose Among Home Health Agencies

Lane Powell White Paper

September 15, 2015 | Event / CLE

Marijuana Legalization and Long Term Care in Oregon: Policies and Procedures for Resident Rights and Resident Safety

Oregon Health Care Association | Portland, Oregon

July 16, 2015 | Publication

Proceed With Caution: Does HIPAA Apply to Your Business?

Oregon Business

April 29, 2015 | Event / CLE

Oregon Health Care Association's Risk Management Conference
Oregon Health Care Association | Portland, Oregon

April 8, 2015 | News

Sanchez and Brecht Join Lane Powell's Litigation Practice Group
Firm Announcement

