



Richard C. Kraus

Shareholder

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Richard Kraus has 30 years of experience in the areas of health care law, appeals, commercial litigation, constitutional litigation and economic crimes defense.

As an appellate lawyer, he has handled difficult cases at all levels of state and federal appeals courts, with recognized expertise in the written and oral advocacy necessary for success in appeals.

His breadth of experience in representing individual health care professionals as well as hospitals, health systems, long term care facilities and multi-practitioner clinics, provides an understanding of clinical and business realities in health care as well as legal and regulatory requirements. He often counsels clients in the following areas:

- Licensing investigations and proceedings for health care professionals and facilities.
- Regulatory and administrative matters for health care professionals, organizations and facilities.
- Response to government investigations (criminal, civil and administrative).
- Reporting and disclosure obligations.
- Defense of health care criminal charges.
- HIPAA and privacy issues.
- Appeals.

In addition to his appellate and health care practice, Richard concentrates on litigation involving commercial, business, governmental and constitutional matters. He also handles business crime defense and internal investigations where he represents business entities and individuals in criminal and regulatory investigations.

PRACTICE AREAS

Appellate Practice

Health Care

General Litigation

White Collar Crime

Licensing - Professional - Business - Government

EDUCATION

Northwestern School of Law, Lewis and Clark College, J.D., 1977, *cum laude*

University of Michigan, B.A., 1974, with distinction

BAR AND COURT ADMISSIONS

Michigan

U.S. District Court for the Western District of Michigan

U.S. District Court for the Eastern District of Michigan

U.S. Supreme Court

U.S. Sixth Circuit Court of Appeals

U.S. Claims Court

HONORS & RECOGNITIONS

2006 Lawyer of the Year, *Michigan Lawyers Weekly*

Distinguished Brief Award for Exceptional Appellate Advocacy Before the Michigan Supreme Court, *Cooley Law Review*, 1992



Several professional associations have recognized Richard. He was honored as 2006 Lawyer of the Year by *Michigan Lawyer's Weekly*. He was a recipient of the Distinguished Brief Award for Exceptional Appellate Advocacy before the Michigan Supreme Court, and has been appointed as a Special Master for the United States District Court for the Eastern District of Michigan.

REPRESENTATIVE MATTERS

- Richard Kraus successfully defended the **State Bar of Michigan** in federal court in two cases involving constitutional challenges to the association's character and fitness review process. The appellate decision held that Michigan's process for determining qualifications of attorneys is constitutional and that members of character and fitness committees are immune from suit.
- The **University of Michigan** Health System hired Richard to defend a 2006 Michigan Supreme Court case about the qualifications of expert witnesses in medical malpractice claims. The lawsuit against a pediatric specialist was dismissed, and, because of his work on this matter, Richard was named Lawyer of the Year by *Michigan Lawyers' Weekly*.
- In a precedent-setting case, Richard represented a **multi-state apartment development company** in state and federal courts, opposing the City of Lansing's exercise of eminent domain on behalf of franchised cable television companies. After obtaining a favorable Michigan Supreme Court decision on an issue of first impression in the country, the court dismissed the city's claim of eminent domain and his clients were awarded \$750,000 in legal fees.

SPEAKING ENGAGEMENTS

Peer Review and Credentialing, *Michigan Association of Medical Staff Services*, October 7, 2011

Peer Review Protection for Credentialing, *Michigan Association of Medical Staff Services*, October 7, 2011

Handling Allegations of Patient Assault in Health Care Facilities, 2010

Attorney-Client Privilege - Legal and Ethical Concerns, 2008

HIPAA Privacy Requirements,

Effective Written Advocacy in Litigation, 2006-2009

Licensing and Discipline of Health Care Professionals, 2005-2006

Special Master, United States District Court for the Eastern District of Michigan

Fellow, Litigation Counsel of America (national honorary society of experienced trial and appellate attorneys)

AV® Preeminent™
Martindale-Hubbell

Best Lawyers in America
(Healthcare)

Michigan Super Lawyers (Appeals, Health Care)



Health Care Fraud and Abuse - Criminal and Civil Issues, 2000-2004

PUBLICATIONS

Be Timely When Filing Claims for Damages Against the State, *Foster Swift Construction Law News*, March 2011

A Plaintiff's Failure to Provide Timely Notice of Intent to File Suit Under the Court of Claims Act is Grounds For Dismissal Even When No Prejudice Has Resulted, *Foster Swift Litigation E-News*, February 8, 2011

Credentialing Files and Physician Procedure Logs Are Protected Against Disclosure, *Foster Swift Medical Malpractice E-News*, January 4, 2011

DEA Recommendations Regarding Delegation of Controlled Substance Prescribing Functions, *Foster Swift Health Care Law Report*, December 2010

Court of Appeals Holds That a Deficient Notice of Intent May be Amended, Even if the Notice was Mailed Before the 2004 Amendment to the Notice Statute, *Foster Swift Medical Malpractice E-News*, September 10, 2010

Ex Parte Interviews of Treating Physicians are Allowed Under HIPAA, *Foster Swift Medical Malpractice E-News*, July 16, 2010

New Reporting and Query Rules for the National Practitioner Data Bank, *M.D. News (Republished in the Foster Swift Health Care Law Report)*, February 2010

Impact of the Economy on Health Care, *Briefs - Ingham County Bar Association*, November 1, 2009

Court of Appeals Enforces Stringent Standard for Statutory Duty to Report Suspected Child Abuse or Neglect and Imposes Liability on Employers for an Employee's Failure to Report, *Foster Swift Health Care Law E-News*, July 21, 2009

Even Good Doctors Need to Know About Licensing Investigations and Complaints, *M.D. News*, July 2009

Health Care Professional Licensing in Michigan, *M.D. News*, January 1, 2009

Effective Writing in Litigation, *Briefs - Ingham County Bar Association*, December 1, 2008

Court of Appeals Holds that a Notice of Intent Must Name Individual Physicians and Must Identify the Standard of Care for Each Specialty Involved in a Plaintiff's Care, *Foster Swift Medical Malpractice E-News*, August 28, 2008

Court of Appeals Interprets Statutory Duty to Report Abuse or Neglect of Nursing Home Residents, *M.D. News*, August 2008

Michigan Supreme Court Fails to Clearly Decide Standards For "Lost-Opportunity" Cases, *Foster Swift Medical Malpractice E-News*, July 29, 2008

United States Supreme Court Rules That an Entity Which Both Administers and Funds an ERISA Benefits Plan Operates Under a Conflict of Interest That Must be Considered When Reviewing Claim Denials, *Foster Swift Health Care Law Report*, July 2008



Healthcare Litigation in the Electronic Age, *M.D. News (Republished in the Foster Swift Health Care Law Report)*, April 2008

MEMBERSHIPS & AFFILIATIONS

Legal Affiliations:

- State Bar of Michigan
 - Appellate Law Section, Member
 - Health Law Section, Member
 - Publications and Website Advisory Committee Member
 - Representative Assembly, 1989-1996
- American Bar Association
 - Appellate Law Section
 - Council of Appellate Lawyers
 - Health Law Section
 - Michigan Legislative Liaison
 - Subcommittee on Health Care Fraud and Abuse-False Claims
- Ingham County Bar Association
 - Judicial Qualifications Committee, 1982-1984
 - Publications Committee, 2008-present
- Federal Bar Association
 - Western District of Michigan Executive Committee, 1978-1979

Industry & Professional Associations:

- American Health Lawyers Association
- American Inns of Court, Master - Michigan State University College of Law
- Litigation Counsel of America, Fellow