



## LEWIS & KAPPES

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### COMMUNITY BASED HEALTH CARE

Lewis & Kappes provides complete and comprehensive legal services to community based health care organizations, boards of directors, and medical and service providers.

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### Federal Tort Claims Act

The Federal Tort Claims Act (FTCA), as it relates to Community Based Health Care, is intended to assist Health Centers in the provision of primary care by reducing or eliminating the expenditure of funds for medical malpractice premiums through deeming Health Center employees (including officers, directors, employees and certain contractors) federal employees thereby making them immune from medical malpractice suits arising from acts or omissions committed within the scope of their employment. The FTCA covers only medical malpractice suits. The FTCA provides immunity to “deemed” Health Centers in their performance of covered activities by imposing liability for such activities upon the United States. As a result of the FTCA, no legal action for damages caused by medical malpractice can be maintained against a covered individual. The injured party’s only available remedy is to file a Federal tort claim to be processed according to the rules of the FTCA.

In order for a Health Center to be covered by the FTCA it must apply for and be granted a deeming letter from the Secretary of Health and Human Services. To qualify for a deeming letter a Health Center must be a Section 330 grantee and must:

1. implement policies and procedures to reduce the risk of malpractice and the risk of suits arising from health care related activities;
2. implement systems which review and verify a professional’s credentials, status, references, claims history, and fitness;
3. cooperate with the Department of Justice in the event of a claim under the FTCA; and
4. provide information to the Department of Justice regarding previous malpractice claims history.

The FTCA covers officers, board members, and employees (both full and part-time) of the Health Center. Contracted physicians or providers are covered if they are considered full-time (work at least 32 hours per week) or are part-time and provide services in family practice, internal medicine, pediatrics or obstetrics, and gynecology. For a contracted provider to be covered all payments for services rendered must come directly from the Health Center and be payable directly to the provider. Volunteers do not qualify as either employees or contracted providers.

FTCA coverage is limited to acts or omissions which (1) occur on or after the deeming date; (2) are within the Health Center’s approved project scope; and (3) are within the individual’s scope of employment.

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**If we can provide you or your organization with additional information or assistance, please contact one of our community based health care attorneys directly at:**

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