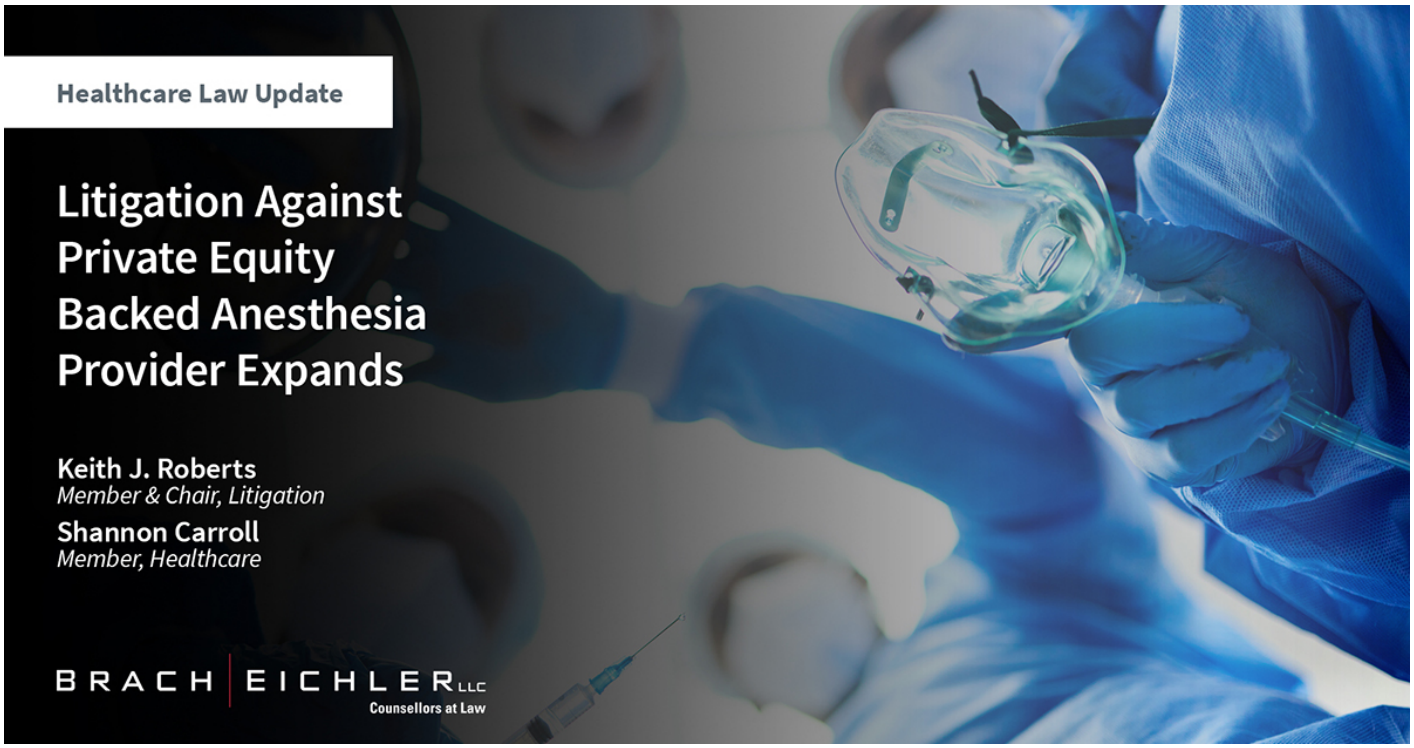
Litigation Against Private Equity Backed Anesthesia Provider Expands



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Recently, hospitals in New York and Florida filed complaints against affiliates of North American Partners in Anesthesia (NAPA) alleging that the anesthesia provider's non-compete agreements were unenforceable. The claims made by the hospitals largely mirror the claims made in the summer of 2022 by RWJBarnabas Health against the NAPA affiliate in New Jersey.

Specifically, the hospitals allege that NAPA failed to properly staff their anesthesia departments and failed to share in the risk of excessive costs. Instead, NAPA simply demanded that the nonprofit hospitals continue to pay increased costs for diminishing services. In response, the hospitals attempted to negotiate a separation from the anesthesia provider. NAPA, in turn, demanded millions of dollars to waive underlying noncompete agreements. The hospitals took action and sued NAPA challenging the enforceability of NAPA's noncompete agreements.

On March 19, 2024, a New York District Court denied NAPA's application seeking temporary enforcement of the noncompete agreement during the pendency of the lawsuit. The Court found that NAPA failed to establish (1) that it would be irreparably harmed if the noncompete agreements were not enforced and (2) that NAPA had a likelihood of success on the merits. In its opinion, the Court noted that this is not a dispute between physicians; rather, this is a dispute between a hospital and an anesthesia management company. NAPA then made an application for the same relief on a permanent basis. The motion is set for argument before the Court on May 1, 2024.

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These cases are significant, because they challenge the enforceability of noncompete agreements held by unlicensed management companies against licensed professionals.

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For more information, contact:
Keith J. Roberts | 973.364.5201 | kroberts@bracheichler.com
Shannon Carroll | 973.403.3126 | scarroll@bracheichler.com

Authors

The following attorneys contributed to this insight.



Keith J. Roberts

Member
Litigation, Healthcare Law

973.364.5201 · 973.618.5585 Fax

kroberts@bracheichler.com



Shannon Carroll

Member
Healthcare Law, Litigation

973.403.3126 · 973.618.5988 Fax

scarroll@bracheichler.com