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– Marshall E. Jackson, Jr., Associate

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McDermott Will & Emery LLP

Ashley M. Fischer, Partner, and Marshall E. Jackson, Jr., Associate—Health Care

Ashley M. Fischer counsels clients on the full range of corporate and regulatory issues facing health care clients today. She advises on affiliations, collaborations, health reform initiatives and alignment strategies, joint ventures, and managed care contracting networks—such as clinically integrated networks (CINs) and accountable care organizations (ACOs). Her broad antitrust experience includes merger analysis and defense, assessment of competitor collaborations (from formation through to daily operations), compliance, and ordinary course conduct. Ashley served as partner-in-charge of the firm's Health Industry Advisory practice group in Chicago from 2015 to 2018 and currently serves on the firm's Management Committee.

Marshall E. Jackson, Jr., collaborates with stakeholders across the health care industry to meet their transactional and regulatory goals. He counsels hospitals and health systems, private equity firms and their portfolio companies, post/sub-acute providers, physician practices, and other public and private health care companies in complex transactions and health regulatory compliance matters. Marshall also offers clients guidance on the rapidly developing legal, regulatory, and compliance aspects of digital health, including telehealth; telemedicine; mobile health; and consumer wellness, and related issues such as professional licensure, scope of practice, informed consent, and reimbursement, as well as prescribing.

Describe your practice area and what it entails.

Ashley: I collaborate with health industry stakeholders on a broad range of corporate and regulatory matters. My antitrust work includes assessing the implications of the formation and operation of competitor collaborations, merger analysis and defense, compliance, and ordinary course conduct. I served as partner-in-charge of McDermott's Health Industry Advisory practice group in Chicago from 2015 to 2018, and I currently serve on the firm's Management Committee.

Marshall: My practice is twofold. I provide transactional and regulatory counseling to a variety of clients in the health care industry, as well as advise on the full spectrum of legal, regulatory, and compliance issues related to digital health—the intersection of health software applications, analytical tools, medical technology, and electronic data assets enabled by the internet and mobile devices—with a particular focus on telehealth, telemedicine, mobile health, and consumer wellness.

What types of clients do you represent?

Ashley: I exclusively represent businesses, associations, and professionals in the health care industry.

Marshall: I work with hospitals and health systems, private equity firms and their portfolio companies, technology compa-

nies, post/sub-acute providers, physician practices, and other public and private health care companies on a variety of complex transactions and health regulatory compliance matters.

What types of cases/deals do you work on?

Ashley: I defend mergers among participants in the health care industry and advise clients on the potential antitrust implications of transactions they are considering. I provide corporate and antitrust counsel to managed care contracting networks—such as clinically integrated networks (CINs), accountable care organizations (ACOs), physician-hospital organizations (PHOs), and independent practice associations (IPAs)—in their formation and operation. I also offer corporate and antitrust counsel to provider collaborations and joint ventures—including quality and/or cost-sharing initiatives, joint purchasing arrangements, and co-marketing arrangements—as well as to trade associations regarding their formation and operation.

Marshall: I advise on all aspects of health care transactions, including mergers, acquisitions, joint ventures, and strategic affiliations. I also advise clients on federal and state health care regulatory issues, including fraud and abuse compliance, reimbursement, behavioral and mental health regulatory compliance, licensure, and operational matters. My digital health engagements include assisting clients in

developing and implementing telehealth programs by advising on state and federal compliance issues related to licensure, scope of practice, informed consent, and reimbursement, as well as prescribing.

How did you choose this practice area?

Ashley: Prior to law school, I was a legislative aide covering health issues on Capitol Hill. I liked that the health industry was dynamic and ever changing, so I decided to pursue health law.

Marshall: Prior to law school, I served as a medical service corps officer in the United States Army. I always wanted to practice law, and by merging my experience in the Army and my passion to practice law, practicing health law was a natural progression. I began my career doing health regulatory and transactional work. I really liked both and understood the need for a depth of regulatory knowledge in transactional work. Additionally, I had a mentor who was involved in digital health, and I found the digital health work particularly interesting. Early in my career, I noted that there were not many lawyers focusing on digital health at the time, and I saw an opportunity for growth. I have continued to expand both my transactional and digital health practice.

What is a typical day like and/or what are some common tasks you perform?

Ashley: There's not a typical day in my work, which is what makes it fun. There is always a new transaction, development, and regulation presenting new and unique issues. Every day is a new adventure.

Marshall: Because my practice spans a few focus areas, I get to see many different aspects of health law. For clients considering transactions—including digital health transactions—I negotiate and draft definitive and ancillary agreements on various deals and collaborations and advise clients on key transactional risk areas. For example, if a private equity firm is investing in a physician practice, I will advise on the risks while also drafting and negotiating the purchase agreements and managing other aspects of the deal. For digital health, I advise clients on various state regulatory requirements and assist providers in establishing telemedicine programs and related compliance protocols.

What training, classes, experience, or skills development would you recommend to someone who wishes to enter your practice area?

Ashley: Health industry experience is truly important for someone wanting to work in health law. You need the hands-

on industry experience to best be able to serve your clients. There are a number of different paths you can take to do that, but you should have some health background. For example, you could take contracts courses specific to the health industry, or you can gain experience by working at a hospital or health company. It is an industry practice, so you need to understand how the industry works in order to guide clients—your legal advice will only be as good as your knowledge of the industry.

Marshall: For anyone looking to practice health law, I first recommend you remain open to taking on projects outside of what you think you want to do. Get experience on various deals and matters. You may think you really want to practice in one area of health law, but find interest in something else. By being open to various projects and experiences early, not only will it help you identify what you like doing within health law, it will also allow you to see common threads across industry sectors. You will only start noticing cross-disciplinary trends by working on different projects.

I would also recommend seeking out and attending training opportunities or conferences that focus on your areas of interest. These opportunities may be internal to your firm or company, but may also be industry-provided conferences and training. I attend various conferences internal to McDermott, such as the Physician Practice Management & ASC Symposium. The American Telemedicine Association has great telemedicine events, and the American Health Lawyers Association provides excellent industry conferences.

What is the most challenging aspect of practicing in this area?

Marshall: The health industry continues to constantly shift and change. On the transactions side, there are many new players coming into the market. Transactions are no longer just physician-to-physician or hospital-to-hospital—we're now seeing tech companies collaborating with providers or payors, and these new deals create complexity and new deal dynamics. Staying up to date on the digital health side is an exciting challenge as well. The technology moves so fast that the laws can't quite keep pace. For me, the most challenging aspect is also what I love best: the challenge of the ever-changing environment. Getting to new outcomes is exciting and keeps you fresh and always learning.

What is unique about your practice area at your firm?

Ashley: What is interesting about health care is that it is always changing. There is always new guidance and regulations. At McDermott, we field multidisciplinary, cross-border teams to propel the success of our clients across the

industry, from tech companies developing ground-breaking digital health applications to health systems pursuing innovative partnerships. We're the leading health care firm in the U.S.—our Health Industry Advisory group is the only health practice to receive top national rankings from *US News–Best Lawyers* “Best Law Firms,” *Chambers USA*, *The Legal 500 United States*, and *Law360*.

What kinds of experience can summer associates gain in this practice area at your firm?

Ashley: Our summer associate program gives participants hands-on experience and tailored mentoring in both group and individual settings, plus extensive training through McDermott University. It is a great way for law students to gain practical, firsthand experience in health care law. Because our firm operates at the cutting edge of the health industry, summer and other junior associates have unique opportunities to develop experience and skills in new and

emerging focus areas. I was a junior associate when HIPAA first came out, and I was able to build a deep knowledge base around that. Getting early industry exposure through McDermott's summer associate program is a great way to start building your own health law practice.

How has the digital health market affected your practice?

Marshall: I spend a fair bit of my time on digital health work. Digital health is continuing to grow across the health industry. Everyone is looking to connect with consumers where they are through digital technology. Telemedicine, for example, allows you to connect with your doctor at work or at home, and with that comes new and different state and federal regulations. I have to understand those regulations so I can counsel companies effectively. I also do a lot of work counseling new nontraditional market players on how they can work in this ever-shifting space.

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Ashley M. Fischer, Partner