

K&L GATES

**TRIAGE**: RAPID LEGAL LESSONS FOR BUSY  
HEALTH CARE PROFESSIONALS



**Segment 2 of 3**

**Provider Standing and  
Assignments of Benefits**

Lauren Garraux

## PROVIDER STANDING UNDER ERISA

- Providers do not have independent standing under ERISA:
  - They are not a plan “participant” or “beneficiary”
  - They are not mentioned in the statute
- Providers can obtain derivative standing through an assignment of benefits (AOB)

## THE AOB

- Patient will execute at or before the time that services are provided.
- Typically executed together with other intake forms, such as a consent for treatment and privacy policies/releases.
- Purpose is to allow the provider to get payment directly from the insurance company.
- Also defines whether a provider can challenge a reimbursement decision and which claims the provider can bring.

# LITIGATION RELATING TO AOBs

- 2 broad categories:
  - Scope of the AOB
    - What rights are transferred?
    - What claims are covered?
  - Validity of the AOB
    - Can the patient assign the rights (i.e., is there an anti-assignment clause in the plan)?
    - Is that limitation enforceable and valid?

## Today's Presenter



**Lauren Garraux**

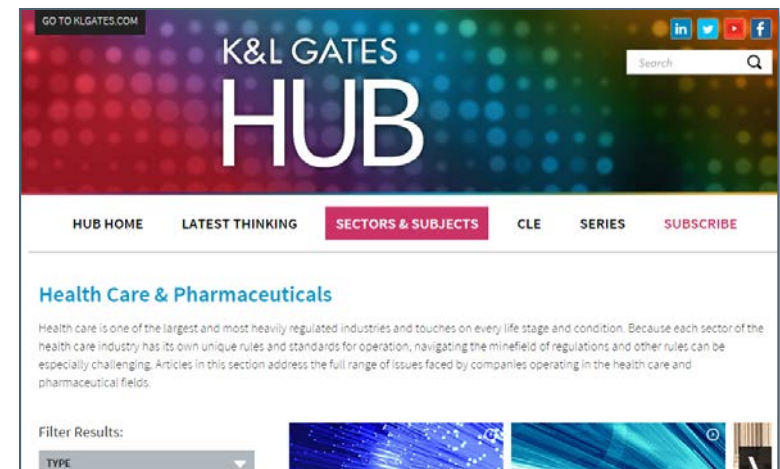
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