

## Edward D. Rickert

### Partner

Edward Rickert is a member of the firm's Health Law Practice Group. As a pharmacist and attorney, Mr. Rickert has used his background and experience to represent pharmacies, pharmacists, physicians, hospitals, long-term care providers, and other health care providers in a variety of matters, including professional negligence, licensure, regulatory, and business issues in courts and before state and federal administrative agencies across the country. In addition to his representation of health care providers, Mr. Rickert has represented drug and medical device manufacturers in both civil and regulatory matters, and insurance companies in a variety of insurance defense and coverage matters, at both the trial and appellate court level.

A longtime focus of Mr. Rickert's practice includes assisting clients in fulfilling their obligations under the Controlled Substances Act (CSA) and the DEA's implementing regulations, including advising on all aspects of compliance with CSA and DEA regulations; assisting clients with seeking procurement quotas from the DEA; petitioning the DEA for rulemaking or comment on proposed rules; and representing clients in administrative and civil litigation matters brought under the CSA.

### Representative Experience

- Lead counsel in trial court and Illinois Appellate Court case involving the federal Patient Safety and Quality Improvement Act of 2005 (PSQIA). Obtained dismissal of state's petition to enforce subpoenas seeking incident reports of medication errors involving several pharmacists, by successfully arguing that the reports were privileged patient-safety work product transmitted to a component Patient Safety Organization (PSO) and were therefore fully protected and privileged under federal law. Affirmed on appeal. *Illinois Department of Financial and Professional Regulation v. Walgreen Co.*, 2012 IL App (2d) 110452, 970 N.E.2d 552 (Ill. App. Ct. 2d Dist. 2012).
- Assisting a client in connection with the National Prescription Opiate Multidistrict Litigation, including assessing risk and developing strategies, responding to subpoenas and Civil Investigation Demands served by various state Attorneys General, and reviewing and analyzing pharmacy dispensing and distribution records.
- Serves as national counsel for several pharmacies, health care technology companies, and drug and medical device manufacturing and wholesaling companies, providing advice, counsel, and



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### Chicago Office

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representation before state and federal regulatory agencies, including the FDA and DEA.

- Assisted specialty pharmacy with the development of a compliance program focusing on FWA, HIPAA, and state regulatory issues.
- Assisted clients in developing compliance strategies, including review and analysis of laws and regulations in all 50 states, in areas that include, among others, licensing issues, change of ownership transactions, drug product selection, Medicaid reimbursement, electronic prescribing, state privacy laws, telepharmacy and related technology issues, and remote prescription processing and dispensing.
- Successfully defended pharmacies and pharmacists, in pharmacy malpractice cases, including cases involving allegations of failure to warn or monitor drug therapy and prescription misfill cases.
- Represented numerous pharmacies, pharmacists and other health care practitioners in licensure actions before professional boards across the country, including Arizona, California, Florida, Illinois, Indiana, Michigan, and other states.
- Defended Medicare and Medicaid recoupment and termination matters.
- Has successfully defended retail pharmacies in cases brought by the Department of Justice seeking civil monetary penalties for alleged violations of the federal CSA related to recordkeeping, diversion, and corresponding responsibility. Recent cases include:
  - A case brought by the U.S. Attorney for the Northern District of Illinois alleging recordkeeping violations, diversion, and failure to comply with corresponding responsibility obligations in which potential civil penalties in the case exceeded \$1 million, and the government's initial demand was \$500,000. Our vigorous defense prevented the filing of a formal complaint and resulted in a settlement for \$10,000 and no public sanctions.
  - Successfully defended a pharmacy in the Southern District of Indiana in a case involving an employee pharmacist who allegedly misappropriated the DEA registration number of a local physician and used it to create numerous prescriptions for various Schedule II controlled substances in the names of family members and friends. The original civil complaint filed by the government also included allegations of recordkeeping violations related to the failure to submit DEA 106 upon discovery of the scheme. Potential penalties in this case approached \$1.5 million. Our defense of this case eventually convinced the AUSA to dismiss the recordkeeping violations, and upon payment of a civil penalty of \$80,000, the case was dismissed.
  - Defended a Chicago clinic pharmacy in a case involving

employee diversion of tens of thousands of tablets of hydrocodone products. The pharmacy faced suspension of its registration and potential civil monetary damages based on its failure to detect and prevent diversion. At the conclusion of the case, the DEA agreed not to refer the case to the U.S. Attorney, and agreed to a three-year Memorandum of Agreement without any associated civil monetary penalties.

- Worked with our client, a technology vendor, to obtain DEA approval for the use of a patient accessible automated dispensing system to dispense controlled substances directly to patients of an emergency department at a Chicago hospital. The approval was the first time that the DEA approved this type of technology and has led to ongoing discussions with the DEA to obtain approval of the technology across the country.

## Legal Services

- Health & Life Sciences
  - 340B
  - DEA Compliance & Litigation
  - Hospitals & Health Systems
  - Pharmacy
  - Specialty Pharmacy
  - Wholesale Drug and Device Distribution
- Health Litigation

## Education and Honors

- Chicago-Kent College of Law (J.D., *with honors*, 1988)
- University of Iowa (B.S., 1983)
  - Major: Pharmacy

## Bar Admissions


- Illinois

## Court Admissions

- U.S. District Court, Northern District of Illinois, 1988
- U.S. District Court, Southern District of Illinois, 1988
- U.S. District Court, Central District of Illinois, 1988
- U.S. Court of Appeals, 7th Circuit
- U.S. Court of Appeals, 8th Circuit

## Professional and Civic Activities

- Infant Welfare Society of Chicago (Board Member)
- American Society for Pharmacy Law (Past President, Past Member)

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- of Board of Directors)
- Legal Task Force / Clinical Labs, Pharmacy and Payer Workgroup, Illinois Office of Health Information Technology (Co-Chair)
  - Illinois Bar Association
  - Chicago Bar Association
  - American Pharmacists Association
  - Illinois Council of Health Systems Pharmacists (Director of Governmental Affairs)
  - Illinois Pharmacists Association
  - American Society for Pharmacy Law
  - Academy of Managed Care Pharmacy

### **Professional Recognition**

- American Society for Pharmacy Law (President's Award, 2004)
- UIC College of Pharmacy, Outstanding Teacher of the Year (Class of 2000 & 2001)
- Recipient of James Hartley Beal Award for Outstanding Paper in Pharmacy Law (1997)