

Preventive Medicine- An Rx for Prudent and Ethical Representation of Physicians and Physician Organizations

*a presentation for the
Physicians and
Physician Organizations Law Institute*

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Overview



- CLIENT IDENTIFICATION
- THE CORPORATE MIRANDA WARNING
- THE ADVICE OF COUNSEL DEFENSE AND WHAT IT *REALLY* MEANS
- WAIVER OF ATTORNEY – CLIENT PRIVILEGE
- HYPOTHETICALS

CLIENT IDENTIFICATION AND THE CORPORATE MIRANDA WARNING



WHO IS YOUR CLIENT?



REPRESENTING THE CORPORATE CLIENT – TO WHOM DO YOU OWE THE DUTY?



THE DUTY TO DISCLOSE



THE CORPORATE “MIRANDA WARNING”

- I do not represent you. I represent the Company.
- If you tell me you have done something wrong, I must report it to your supervisor, or other persons in the company charged with investigating wrongdoing. I may also have to suggest that your supervisor or the person(s) designated by the Board of Directors to investigate wrongdoing initiate an action to end your employment and/or other legal action against you.

THE CORPORATE “MIRANDA WARNING”

{continued}

- If you would like to talk to your own lawyer before we talk, I encourage you to do so.
- In fact, just so you understand clearly, the attorney-client privilege does not necessarily apply to anything you tell me. At some future date I might be called to testify in court about what you tell me now, and our conversation would not be privileged. I would be required to tell the Court about it.

