

The Layers of Law

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Stacy Harper, JD, MHSA, CPC

sharper@spencerfane.com



SpencerFane

Overview

- Civics Basics
- The Process
- Legal Hierarchy
- State versus Federal
- Resources
- Examples and Discussion

Civics Basics

Legislative

Passes the
Law

Statutes

Executive

Enforces
the Law

Regulations

Judicial

Interprets
the Law

Court
Cases

The Process - Legislative

- Bills
 - Committee Review
 - Floor Discussion
 - Passed by House and Senate
- Signed or Vetoed
- Incorporated into the Statutes
- Must be consistent with the Constitution
- May defer detail to Agency

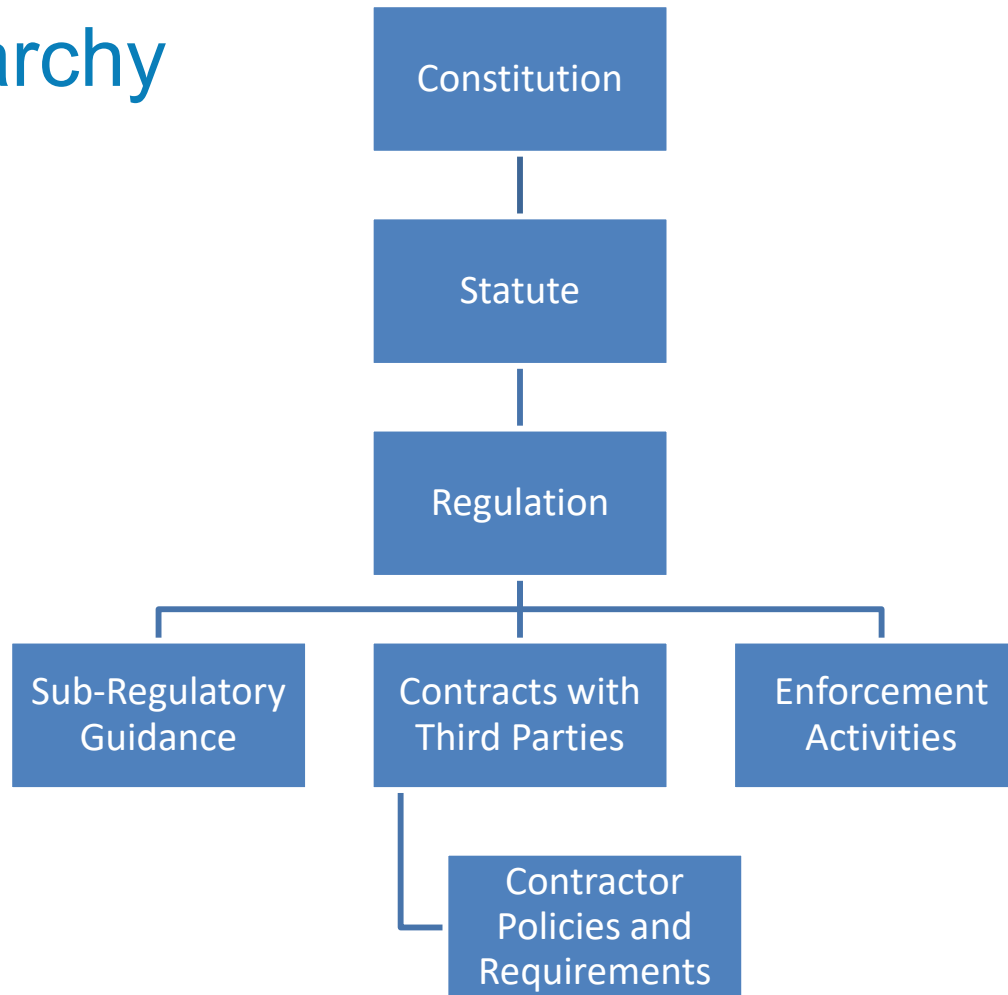
The Process - Executive

- The Administrative Process
 - Proposed Rule
 - Comment Period
 - Final Rule
 - Regulation
- Must stay within the scope of the Statute
- Sub-regulatory
 - Opinions
 - Administrative Hearings

The Process - Judicial

- Constitutional Challenges
- Administrative Challenges
- Procedural and Substantive Requirements
- Outcome is based on application of the law to a specific set of facts
- Court/Appellate Levels
 - District Court
 - Court of Appeals
 - Supreme Court

Legal Hierarchy



Medicare Hierarchy

- Social Security Act
- Regulatory Requirements
 - Federal Register
- CMS Manuals
 - National Coverage Determinations
 - Benefit Policy Manual
 - Claims Processing Manual
- MAC Policies
 - Local Coverage Determinations
- Medicare Advantage Plan Policies

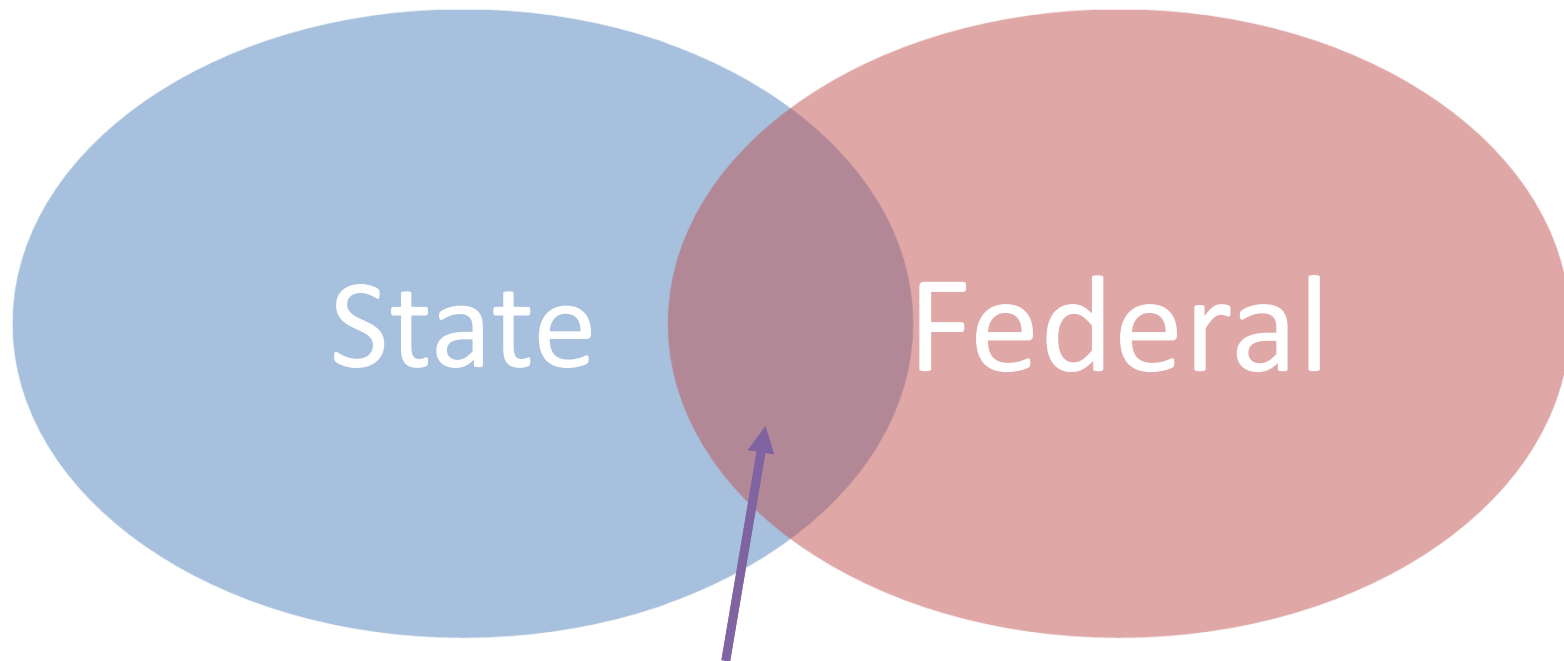
Medicaid Hierarchy

- Social Security Act
- Federal Regulations
- State Plan Amendment
- State Law
- State Manuals
- State Contracts
- Managed Care Organizations

Private Payer Hierarchy

- State and Federal Law
 - State Insurance Law
 - Affordable Care Act
 - Medicare Advantage
 - ERISA
- Benefits Plan
- Provider Contract
- Manuals
- Other Policies

State versus Federal



Does It:

- Have the Same Scope?
- Conflict or Supplement?

Resources - Federal

- Statutes - <http://uscode.house.gov/>
- Bills <https://www.congress.gov/>
- Regulations <https://www.ecfr.gov/>
- Federal Register <https://www.federalregister.gov/>

Resources - State

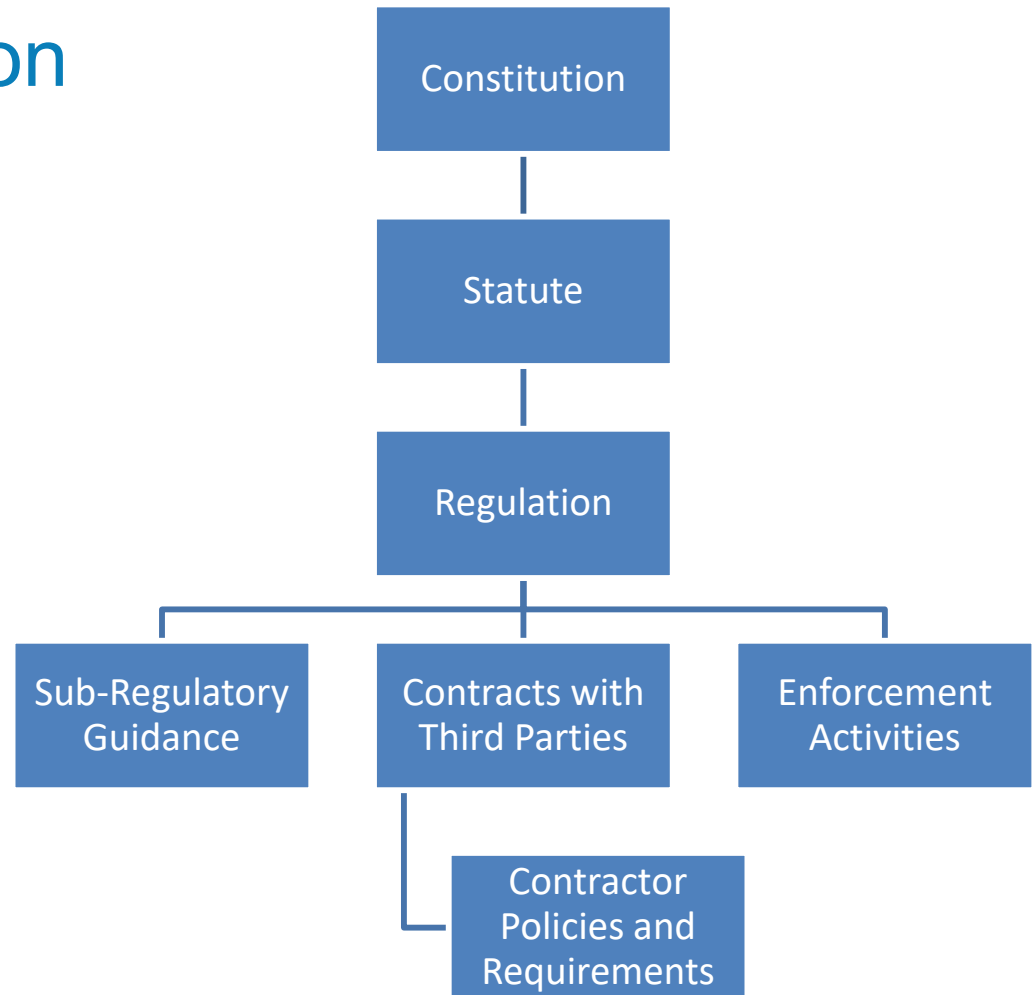
- Missouri
 - Statutes <https://revisor.mo.gov/main/Home.aspx>
 - Regulations <https://www.sos.mo.gov/adrules/csr/csr>
 - Cases <https://www.courts.mo.gov/cnet/welcome.do>
- Kansas
 - Statutes https://www.kslegislature.org/li/b2023_24/statute/
 - Regulations https://sos.ks.gov/publications/pubs_kar.aspx

CMS Tools

- Manuals <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs>
- Physician Fee Schedule Lookup Tool <https://www.cms.gov/medicare/physician-fee-schedule/search/overview>
- Clinical Lab Fee Schedule File <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ClinicalLabFeeSched/Clinical-Laboratory-Fee-Schedule-Files>
- DMEPOS Fee Schedule <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/DMEPOSFeeSched/DMEPOS-Fee-Schedule>
- Coverage Policies <https://www.cms.gov/medicare-coverage-database/search.aspx>

Examples for Discussion

- HIPAA Accounting of Disclosures
- No Surprises IDR Regulations
- *Dobbs* and Missouri Law
- Stark Law Evolution
- Insurance Law
- Information Privacy/Security



Questions?



Stacy Harper

Partner | Overland Park, KS

913.327.5120 | sharper@spencerfane.com