



## ANDREW T. GARBARINO / OF COUNSEL

AGARBARINO@RMFPC.COM

O: 516-663-6632 F: 516.663.6832

### EDUCATION

- St John's University School of Law, (J.D., cum laude, 2002) Chief Justice of Moot Court
- University of Delaware (B.A., 1995)

### PRACTICE AREAS

- Alternative Dispute Resolution
- Cybersecurity and Data Privacy
- Health Law: Regulatory
- Not-For-Profit
- White Collar Crime & Investigations

A lifelong resident of Long Island, Andrew has extensive experience in both the private and public sectors. He is a member of the firm's Health Law Department, as well as the White Collar Crime & Investigations, Not-For-Profit and Cybersecurity and Data Privacy practice groups.

As an Assistant District Attorney in Nassau County, Andrew was assigned to the Crimes Against Real Estate Unit and Public Corruption Bureau. While there, he prosecuted cases ranging from sex crimes to white collar crimes, including larcenies, identity thefts, cyber-crimes, forgeries and frauds.

Andrew advocates for and advises various corporations, hospitals, law firms and individuals, including CEO's, CFO's, lawyers, bankers and members of law enforcement, as well as hundreds of physicians and healthcare professionals accused of (or victimized by,) criminal, professional or other misconduct.

Andrew possesses significant experience dealing with regulatory authorities, including the Securities and Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA) and state authorities including the Office of Professional Medical Conduct, (OPMC), Office of Professional Discipline, (OPD), Workers' Compensation Board and a variety of New York City administrative departments. He has also counseled law firms and attorneys facing inquiries by Attorney Grievance Committees and addressed matters involving the New York State Commission on Judicial Conduct.

He has managed dozens of internal investigations for clients including municipalities, hospitals, medical practices and law firms. He often liaises with forensic experts, private investigators and members of law enforcement.

Articles by Mr. Garbarino have been published in the New York Law Journal, the Nassau Lawyer and Long Island Business News. He is a member of the New York State Bar Association's Dispute Resolution Section and Criminal Justice Section, where serves on the White Collar and Ethics Committees. Mr. Garbarino is also a fellow of the State Bar Foundation.

He is a member of the board of directors for the Association for Mental Health and Wellness.

#### **Representative matters:**

- Represented vice-president and Chief Loan Officer of a commercial bank in connection with an SEC investigation and testimony before the commission regarding loan practices and accounting issues, resulting in the SEC's determination that no further action would be taken regarding our client.
- Conducted internal investigation for mid-sized law firm regarding potential escrow improprieties that were traced to errors made by the firm's bank. A letter disclosing the matter to disciplinary authorities resulted in no action being taken.
- Represented medical school graduate, arrested during residency, for Criminal Possession of a Forged Instrument – a prescription for narcotics – and Burglary – for stealing narcotics. Negotiations with prosecutors, resulted in the case's transfer to a Treatment Court. Following her successful completion of treatment, all charges were dismissed, with no administrative repercussions to her license as a physician.
- Represented attorney charged with multiple criminal violations of NY Judiciary Law. The criminal matter was resolved without any attendant disciplinary impact.
- Represented college student arrested for Gang Assault, a B Violent Felony, carrying a potential sentence of 5-25 years. The defense investigation and negotiations (that did not involve cooperation,) with the prosecution resulted in a conviction for Disorderly Conduct, a non-criminal violation, with a \$250.00 fine. Two co-defendants received pre-trial criminal convictions, which included jail time.
- Advised medical practice that discovered that it may have run afoul of various provisions of the Federal False Claims Act, revealing a potential liability of more than \$13.5 million dollars, before treble damages and other penalties. The resultant self-disclosure to government regulators resulted in no sanctions.
- Represented large medical practice in connection with a filed qui tam action alleging multiple violations of the Federal and New York State False Claims Acts, where the government demanded more than \$7 million in settlement, prior to assessing treble damages and civil penalties. Discussions with state and federal authorities led to the case's withdrawal and the dismissal of the relator's claim, with no penalty to the client.
- Represented physician investigated by the OPMC involving allegations that, among other things, he failed to maintain patient records, employed an unlicensed physical therapist and allowed a chiropractor to essentially manage his practice (and make medical decisions including ordering unnecessary and inappropriate diagnostic tests.) After an interview, OPMC closed the matter with no further action.

- Represented neuro-surgeon who was the subject of a credentialing hearing with his insurance carrier due to a severe malpractice history. After extensive preparation, the client participated in the hearing (where there is no right to counsel,) and not only maintained his coverage, but avoided a surcharge.
- Represented pharmacist who was the subject of an investigation by the New York City Human Resources Administration Frauds Division for accepting Medicaid benefits to which she was not entitled. Matter was settled for less than half of the amount initially demanded by the Frauds Division, with an agreement that no further action and no criminal referral would be made.
- Advised large medical practice concerning OPMC inquiry into propriety of practice's advertising.
- Counseled physician subject of a major Anti-Kickback investigation. Meetings with federal authorities resulted in no arrest and no administrative action.
- Represented the controller of large not-for-profit who was indicted with five other employees on dozens of charges, including B and C-level felonies. After negotiations and motion-practice, client received a misdemeanor, no-jail sentence.
- Conducted internal investigation and counseled a large medical practice in connection with a data breach involving the personal information of close to one hundred thousand patients, resulting in a referral of a physician to law enforcement and extensive government-mandated disclosures.
- Represented an entity that sold-off various vehicles and equipment, yet was served with several notices of violation from the New York City Environmental Conservation Agency because a buyer failed to remove the client's name from the equipment and likewise failed to re-register the equipment as required. At a hearing before the agency, which included the unexpected "eleventh hour" briefing of a collateral estoppel issue, all violations were dismissed.

#### As a prosecutor:

- Appointed to team that investigated an incident on "Black Friday" 2008, where a store employee was killed and multiple others injured in a trampling incident, resulting in a significant written settlement with the company.
- Investigation and trial conviction of an attorney for stealing hundreds of thousands in client funds in connection with an adoption scheme wherein he falsified documents and photographs.
- Investigation and trial conviction of an attorney for identity theft and attempted larceny in connection with a mortgage fraud scheme.
- Investigation and trial of a "mortgage rescue" consultant, resulting in the recovery of hundreds of thousands of dollars on behalf of victims of scheme.
- Investigation and prosecution of a corrections officer for the sexual abuse of multiple female prisoners.
- Prosecution of a cyber-criminal who stole the personal information of thousands of patients from an area hospital, causing tens of millions of dollars in damage to national phone carriers by creating false accounts with the stolen information.

## PUBLICATIONS

- An Old Voice Phishing Scam Has Been Retrofitted to Target Physicians (Alerts, Cybersecurity, Health Law: Regulatory, White Collar Crime and Investigations)
- RMF Attorney Andrew T. Garbarino Panelist at HIA-LI Virtual Program “Leading A Remote Workforce: Through the Pandemic & Beyond” (*Press Releases*)
- RMF Attorney Andrew T. Garbarino Elected Fellow of The New York Bar Foundation (*Press Releases*)
- RMF Attorneys Present Webinar Program on Telemental Health to the Association of Mental Health And Wellness (*Announcements*)
- More Than Ever, Cybersecurity Is a Board-Level Concern (*Cybersecurity*)
- Ruskin Moscou Faltischek Attorney Andrew Garbarino Named to Board of Association for Mental Health and Wellness (*Press Releases*)
- One Hit and a Few Near Misses: How New York State Physicians Lost Fundamental Rights, Risked Losing More – And No One Noticed (*Health Law: Regulatory*)
- Of Redbirds and Rockets: Corporate Espionage and America’s Pastime (*Cybersecurity*)
- RMF attorneys present program to the Nassau County Bar Association Health and Hospital Law Committee (*Press Releases*)