

## Sticks and Stones

Broken bones are no longer an issue in Wayne County thanks to the new Bone & Joint Institute built by Cork-Howard Construction – who worked in close association with the facility's owner, Dr. Lex Kenerly and architect, Mark Yeager of Design Consultants International. The facility incorporated state-of-the-art technology within a stunning natural design of timber and stone.

While stone and timber graced the front entrance, the trusses used for the facility entrance were made of a unique pecan shell blasted timber, manufactured in Oregon and shipped to site. Respecting the importance of these timbers as a focal point for the reception area and porte-cochère, a replacement or alternate would not be considered; this, in conjunction to what a delay remanufacturing would cause, made this structural item a stressful and challenging part of this construction project.

Installation complexity of the sophisticated equipment added to challenges surrounding this project. The facility housed a complete Magnetic Resonance Imaging (MRI) suite with all the required Radio Frequency (RF) shielding and non-magnetic construction, inclusive of exterior

windows installed to allow natural lighting and ease patient confinement concerns. Along with the MRI suite was a full X-Ray suite accompanied by its high-tech equipment as well as all its associated lead-lined construction detail.

Attached to this facility was a fully equipped Ambulatory Surgical Center housing two operating rooms; pre- and post- operating rooms; and clean and soiled workrooms. The facility included all medical gas, vacuum, and oxygen requirements found in such a surgical suite.

The remaining challenge included the coordination of the sophisticated equipment; MRI, X-Ray, and other extraneous medical equipment; along with the state inspection that requires a 45-day notice prior to inspection. Equipment delivery dates and installation turnover dates were extremely critical. However, all dates were met and the facility was fully accredited, allowing the opening to occur as planned per the schedule established six-months prior.

There were many hurdles and challenges to this important construction project; however, the entire team worked together to ensure the city of Jesup and



surrounding areas received a fully-operational medical facility to meet their growing needs.

The importance of the state-of-the-art facility built in Jesup by Dr. Kenerly cannot be overstated. Located over 200 miles from Atlanta, this facility provides a much needed service to the area residents. Throughout this endeavor Cork-Howard provided professional, quality construction. And, like the timber company so richly engrained in the area, was able to incorporate many environmental initiatives into the project while maintaining the agreed to budget and schedule.

Throughout the project, Cork-Howard Construction believes it had two clients to serve during this project. Obviously pleasing Dr. Kenerly and the architect was “job one”; however, Cork-Howard never lost sight that the residents of Jesup and the surrounding communities would also be greatly impacted and affected by this construction project.

Cork-Howard is pleased to announce the efforts of their construction and Dr. Kenerly's vision was recognized by the Associated General Contractors' – Georgia Branch. This project was awarded the 2011 Build Georgia Award at their annual convention in June.

For more information, visit [www.corkhoward.com](http://www.corkhoward.com) or contact Business Development Manager, Bill Gray, at [b.gray@corkhoward.com](mailto:b.gray@corkhoward.com).

## The New Epidemic ... Unclaimed Property Audits

Any company involved in the health care industry should routinely examine the status of its compliance with state unclaimed property laws. The unique nature of the pricing and the parties involved in the provision of health care services requires that companies, such as hospitals and insurance providers, make special efforts in considering the effectiveness of existing unclaimed property compliance. These special efforts should include reviewing the types of property that may be subject to state unclaimed property laws and the accuracy of balances maintained in both accounts receivable and accounts payable. Without such diligence, health care service providers risk accumulating significant unclaimed property liabilities. With health care providers already in the spotlight of most states' audit programs, the liability will probably be discovered and become the subject of an assessment. Like health care itself, upfront preventative maintenance in unclaimed property compliance is always easier and cheaper than waiting until a crisis occurs.

Unclaimed property is intangible property that an owner has not taken some action to indicate an ownership interest or awareness of the property during a certain period of time specified by law. When this failure to act or “abandonment” occurs, it becomes the obligation of the party holding the property to report and pay over the property to the state. Unclaimed property laws in most states primarily pertain to intangible property, such as uncashed payroll and vendor checks, unredeemed gift cards, uncashed dividend checks, and two types of property that are of particular interest to the health care industry; accounts receivables and credit balances.

States enforce unclaimed property laws



BY DIANN L. SMITH AND MARLYS A. BERGSTROM

through audits. Since these unclaimed property statutes deal with a property right to which the company holding the property arguably never had a claim, there is no statute of limitations on the enforcement. As a result, an unclaimed property audit can reach back to either the inception of the state's unclaimed property statute or the date incorporation of the company subject to the audit. Generally speaking, most unclaimed audits span a period of 10 – 20 years.

### Unclaimed Property and the Health Care Industry

The health care industry has always been a potentially lucrative unclaimed property audit target because many of the companies involved in the industry generate significant credit balances that are never reconciled to existing debit balances or repaid to the owner. These credit balances are typically generated through overpayments by insurance companies (frequently as a result of confusion or changes in plan charge and reimbursement rules) and accidental duplicate payments (because both a patient and an insurance provider pay the same charge). Phantom credit balances can be generated because of the constant change and upgrad-

ing of billing systems that occurs in the industry or because multiple accounts exist for a single owner and a payment is credited to the wrong account.

### THE UNCLAIMED PROPERTY QUIZ

Health care organizations should not wait until an auditor arrives to determine any potential unclaimed property liability. Answering these four simple questions can provide a quick assessment of an institution's unclaimed property compliance readiness.

1. Before reading this article, did anyone in the organization know what “unclaimed property” is?
2. Has the organization ever filed an unclaimed property report?
3. Assuming the organization has filed an unclaimed property report, did it ever report credit balances?
4. Are outstanding credit balances listed on an aging report reconciled or refunded within 120 days?

If the answer was “no” to any of these questions, there is a strong likelihood that the organization has an unclaimed property issue.

### The Unclaimed Property Antidote

Although there is no quick fix when it comes to curing unclaimed property liability problems, there are opportunities to mitigate the potential exposure. The first step is to ensure that the organization is in compliance with the various state unclaimed property laws even though coming into compliance may require significant effort and commitment.

Fortunately, most of the states are generally forgiving when an organization comes forward voluntarily. Most states will usually

waive penalties and interest, but will require a look-back period of approximately 10 years in the determination of the actual property liability. Before coming forward to the state voluntarily, serious consideration should be given to the idea of performing a self audit. Given the potentially large liability at stake, an initial conversation with counsel well versed in unclaimed property is a good starting point.

Once in compliance, the next challenge is to stay in compliance. The key to compliance is implementing processes and procedures that not only adhere to the unclaimed property laws, but also are customized to the specific organization. Opportunities exist to minimize potential unclaimed property exposure, particularly with respect to credit balances. For example, several states have statutory limitations periods that apply to certain insurance related overpayments, unidentified remittances, uncashed refund checks, and credit balances held by health care providers.

The health care industry must prepare for the inevitable. Unclaimed property is easy money for the states. Current budget deficits will not be cured overnight. Raising taxes is politically unfavorable, but increased unclaimed property compliance often flies under the political radar. In raising the much needed revenue by more aggressive unclaimed property enforcement, states inevitably turn to those industries with large amounts of unidentifiable funds, such as health care.

Marlys Bergstrom and Diann Smith are attorneys with Sutherland Asbill & Brennan LLP. Marlys can be reached at [marlys.bergstrom@sutherland.com](mailto:marlys.bergstrom@sutherland.com) or (404) 853-8177. Diann can be reached at [diann.smith@sutherland.com](mailto:diann.smith@sutherland.com) or (202) 383-0884.