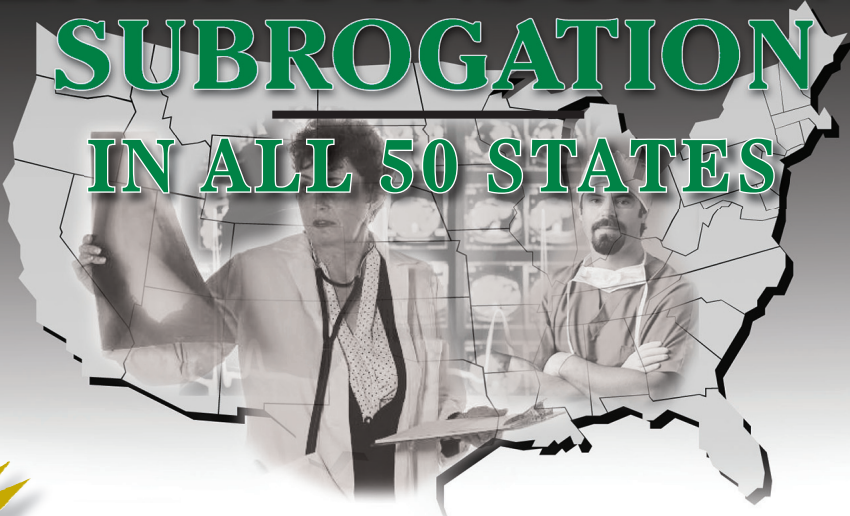


ERISA AND HEALTH INSURANCE SUBROGATION IN ALL 50 STATES



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“This book is the bible on health insurance subrogation. No claims handler should be without it.”
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BY GARY L. WICKERT

ERISA and Health Insurance Subrogation – In All 50 States -4th Edition

US \$225. 1300 pages. 1 Hardcover Volume. Table of Authorities. Index.
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About the Author:

Gary Wickert is a Partner with Matthiesen, Wickert & Lehrer, S.C. in Hartford, Wisconsin. Mr. Wickert is an insurance trial lawyer and is regarded as one of the world's leading experts on insurance subrogation. He is the author of several subrogation books and legal treatises and is a national and international speaker and lecturer on subrogation and insurance motivational topics. Gary Wickert currently oversees a National Subrogation Recovery Program which includes local counsel in all 50 states, Mexico and Canada. This program has served the subrogation needs of more than 250 insurance carriers, boasting more than \$500 million in recoveries and credits since 1983.

An author of many insurance articles, publications, and model Plan language for insurance underwriters and health insurers, Mr. Wickert also organizes and presents subrogation lectures and seminars worldwide, and contributes to insurance publications for the National Association of Subrogation Professionals, the Association of Trial Lawyers of America, and the International Risk Management Institute, where he has served on a subrogation task force. He is also an exam writer and grader for the National Board of Trial Advocacy and is called on to testify as an expert witness on insurance issues such as subrogation, indemnity, and attorney's fees, having served as a past chairman of the Houston Bar Association's Fee Dispute Committee. Gary has also worked with the Texas Legislative Oversight Committee in connection with the Texas workers' compensation subrogation statute, and has been called on by legislatures in several states to provide oversight and input with regard to the drafting of subrogation law. Gary is a former member of the Board of Directors of the National Association of Subrogation Professionals, and has served as National Director and Chairman on the NASP Regions Committee, as well as a member of the Amicus and Publications Committees. Gary Wickert represents the subrogation interests of numerous health insurers and health Plans in every jurisdiction within the United States.

What's new in the Fourth Edition?

The *Fourth Edition of ERISA And Health Insurance Subrogation In All 50 States* contains a great deal of new

information, statutory amendments and case decisions. It reflects the changing nature of health insurance subrogation and emphasizes the areas which have traditionally been weak spots in the subrogation professional's arsenal. Although health insurance subrogation has become unduly complex and confusing over the past several years, the *Fourth Edition* goes to great lengths to make the complex understandable, easily digestible and useful. The book is suitable for both the inexperienced health insurance subrogation claims handler and the seasoned veteran.

The *Fourth Edition* includes new case law, both state and federal, that has shed new light on causes of action available against plaintiffs' lawyers who settle cases and do not honor a Plan's reimbursement rights. This includes entirely new sections on Equitable Liens by Agreement and Conversion and Tortious Interference. As tort reform continues to change the subrogation landscape, the *Fourth Edition* details new case law applicable to medical malpractice actions and its interplay with subrogation claims and collateral source rules. New law and analysis has been added to the book confirming that ERISA preempts not only state legislation, but also has the power to preempt the judgments and orders of state courts – even those orders touching on domestic relations, which is an area of law traditionally reserved for state courts. New federal district cases within the 6th Circuit have confirmed that now two – instead of just one – requirements must be met in order to overcome the Made Whole Doctrine with your Plan language. The 6th Circuit also has a new decision which clarifies that the Common Fund Doctrine does not apply when a Plan says that it automatically has a first priority lien upon the proceeds of any recovery from a third party. New 6th Circuit case law regarding an ERISA Plan's efforts to place a constructive trust on Social Security benefits received by a Plan beneficiary which result in overpayment by the Plan has been added to Chapter 10.

Additional information and guidance has been added to the *Fourth Edition* regarding the difficulty of determining whether a Plan is self-funded as opposed to fully-insured and what is necessary to prove this. Also, tips for deciphering insurance filings and Form 5500 mistakes which can mislead trial lawyers are addressed. New York's collateral source statute

PRaise FOR

“ERISA and Health Insurance Subrogation - In All 50 States”

“A difficult and confusing subject made simple. If you have health insurance subrogation responsibilities, you need this book.” -**Loren Smith, Kelly, Smith & Murrah, P.C.**

“When I entered the unsettled world of occupational accident plan subrogation, this book helped me find the answers.”

-**Beth Cipollo, Cambridge Integrated Services Group, Inc.**

“As a lawyer, I can tell you that this book is essential to maximizing our clients' subrogation recoveries. Don't settle another subrogation claim without it.”

-**David Gagliardi, Cambridge Integrated Services Group, Inc.**

“Every lawyer and claims adjuster responsible for subrogation should get a copy of this book before handling another health insurance file.”

-**Daniel J. Offenbach, Leahy, Eisenberg & Fraenkel, Ltd.**

was amended in 2009 to severely limit the subrogation rights of non-ERISA, fully-insured Plans which cannot avail themselves of ERISA's preemption provisions. This *Fourth Edition* also contains helpful information regarding The Health Information Technology for Economic and Clinical Health Act (HITECH), enacted on February 17, 2009 and signed into law by President Obama, which could have a profound impact on subrogation's interface with privacy law such as HIPAA.

Overall, the *Fourth Edition* is a much more potent subrogation tool than its predecessor. *ERISA and Health Insurance Subrogation In All 50 States* remains the industry's bible on health insurance subrogation and no claims handler, Plan administrator, subrogation professional, or lawyer should be without it.

About the Book:

ERISA and Health Insurance Subrogation In All 50 States is the most complete and thorough treatise covering the complex subject of ERISA and health insurance subrogation ever published. Unlike most areas of insurance litigation/subrogation, health insurance subrogation requires the subrogation professional to be familiar not only with applicable state law and the many vagaries and nuances of health insurance subrogation within each state, but also the treatment of health insurance subrogation through ERISA, as applied by Federal District Courts, Federal Appellate Courts, and the United States Supreme Court. Familiarity with the general trends within each of the 12 Federal Circuits is also cited. This book introduces the health insurance claims handler, in-house counsel and subrogation professional to the complex and challenging world of health insurance subrogation in today's insurance subrogation marketplace. It covers the following issues in all 50 states and every federal circuit:

The following issues and topics are covered in detail for each of the 50 states and all Federal Circuits:

Types of Subrogation

- Conventional (Contractual) Subrogation
- Legal (Equitable) Subrogation
- Statutory Subrogation
- Difference Between Subrogation and Assignment
- Role of Equity
- Hospital Liens
- Medicare
- Other Statutory Subrogation Rights

Non-ERISA Health Insurance Subrogation

- Common Fund Doctrine
- Contributory Negligence
- Indemnification Agreements
- Indemnity Versus Investment Contracts
- Made Whole Doctrine
- Mandatory Joinder of Parties
- Medical Subrogation Generally
- Releases and Settlement Checks
- Statutes of Limitations

- Subrogating Against Municipalities
- Under/Uninsured Motorist Carrier Recoveries

Complete Summary of Health Insurance Subrogation in All 50 States

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- Collateral Source Rule
- Common Fund Doctrine
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- Equitable Subrogation Rights
- Historical Treatment of Health Insurance Subrogation
- Interface with No-Fault Insurance Laws
- Limitation on Recovery
- Notice Requirements
- Rights of Reimbursement
- Rights of Subrogation
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- Treatment on Made Whole Doctrine
- Wrongful Settlement

ERISA-Covered, Self-Funded Employee Medical Benefit Plan Subrogation

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- Exclusions from ERISA
- Federal Common Law
- Gerrymandered Settlements
- Government Plans
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- HMO Plans
- Multi-Employer Plans
- Occupational Accident Plans
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- Reimbursement Agreements
- Reimbursement Rights
- Rights of Subrogation Under ERISA
- Role of Plan Fiduciaries and Third Party Administrators
- Sample ERISA Plan Language
- Self-Funded Plans Versus Insured Plans
- Stop-Loss Coverage
- Subrogation Receipts
- Summary Plan Descriptions
- Trade Association Plans
- Trust, Contract and Labor Law Parallels
- Types of Subrogation Provisions

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- As Effected by Reimbursement Provisions

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- Summary of Made Whole Doctrine by Federal Circuit

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- Plan Language Changes Recommended in Light of *Sereboff* and *Knudson*

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