Tracy Vigness Kolb

Partner

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Bismarck

Overview

Tracy focuses her practice on healthcare litigation, regulatory compliance, and data privacy, representing healthcare providers in complex legal and regulatory matters. She brings extensive experience advising clients on risk management, defense of claims and lawsuits, and compliance with evolving legal requirements.

Tracy has represented hospitals, clinics, physicians, nurses, and long-term care providers in medical malpractice and other litigation matters. She also advises and represents clients in licensing, regulatory, and disciplinary proceedings, offering practical guidance grounded in her experience across both the private and public sectors.

Clients work with Tracy for:

- Defense of medical malpractice and healthcare-related claims
- Representation in licensing, regulatory, and disciplinary matters
- Compliance with healthcare regulations and legal requirements
- Guidance on data privacy and security, including HIPAA and HITECH

Tracy has a strong focus on data privacy and security, particularly as it applies to healthcare providers. She has in-depth knowledge of HIPAA, HITECH, and other privacy laws, and has helped clients develop and implement privacy and security compliance programs. She also served on the American Bar Association’s HITECH Task Force, contributing to the development of resources and guidance on compliance issues.

She practices in North Dakota state and federal courts.

Outside of the office, she likes to golf, bike, and travel with her husband and daughter.

Services

- Professional Liability - Health Care

State Bar Admissions

- North Dakota, 1995

Federal Court Admissions

- United States Supreme Court, 2024
- United States District Court, District of North Dakota, 1995

Tribal Court Admissions

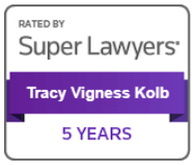
- Turtle Mountain Tribal Court
- Three Affiliated Tribes Tribal Court
- Standing Rock Sioux Tribal Court

Education

- University of North Dakota School of Law, J.D., with Distinction, Order of the Coif, 1995
- Minot State University, B.A., President's Honor Roll; National Dean's List, 1992

Judicial Clerkships

- Honorable William A. Neumann, North Dakota Supreme Court



Experience

Reported Opinions/Recent Cases

North Dakota Supreme Court

- *Cichos et al. v. Bohn & Dakota Eye Institute*, 2019 ND 234
- *Condon v. St. Alexius Medical Center and Dr. Booth*, 2019 ND 113
- *North Central Electric Coop., Inc., v. N.D. Pub. Svc. Comm.*, 2013 ND 158, 827 N.W.2d 138
- *Hayden v. Medcenter One, Inc.*, 2013 ND 46, 828 N.W.2d 775
- *Khokha v. Shahin*, 2009 ND 110, 767 N.W.2d 159
- *Chamley v. Khokha*, 2007 ND 69, 730 N.W.2d 864
- *Davis v. Killu*, 2006 ND 32, 710 N.W.2d 118
- *Forster v. West Dakota Vet. Clinic*, 2004 ND 207, 689 N.W.2d 366
- *Vandall v. Trinity Hospital*, 2004 ND 47, 676 N.W.2d 88
- *Holman v. Berglund*, 2003 ND 103, 664 N.W.2d 516
- *Haugenoe v. Bambrick*, 2003 ND 92, 663 N.W.2d 175
- *Jundt v. Jurassic Resources Devel.*, 2003 ND 9, 656 N.W.2d 15
- *Klein v. N.D. Workers Comp. Bureau*, 2001 ND 170, 634 N.W.2d 530
- *Wright v. N.D. Workers Comp. Bureau*, 2001 ND 72, 625 N.W.2d 256
- *Rask v. Nodak Mut. Ins. Co.*, 2001 ND 94, 626 N.W.2d 693
- *Albrecht v. Metro Area Ambulance*, 2001 ND 61, 623 N.W.2d 367
- *Rogstad v. Dakota Gasification Co.*, 2001 ND 54, 623 N.W.2d 382
- *Lewis v. N.D. Workers Comp. Bureau*, 2000 ND 77, 609 N.W. 445
- *Albrecht v. Metro Area Ambulance*, 1998 ND 132, 580 N.W.2d 583
- *Saakian v. N.D. Workers Comp. Bureau*, 1998 ND 227, 587 N.W.2d 166
- *Hibl v. N.D. Workers Comp. Bureau*, 1998 ND 198, 586 N.W.2d 167

- *Geck v. N.D. Workers Comp. Bureau*, 1998 ND 158, 583 N.W.2d 621
- *Ash v. Traynor*, 1998 ND 112, 579 N.W.2d 180
- *Gregory v. N.D. Workers Comp. Bureau*, 1998 ND 94, 578 N.W.2d 101
- *Dietrich v. N.D. Workers Comp. Bureau*, 1997 ND 198, 575 N.W.2d 224
- *McDaniel v. N.D. Workers Comp. Bureau*, 1997 ND 154, 567 N.W.2d 833
- *Little v. Traynor*, 1997 ND 128, 565 N.W.2d 766
- *Traynor v. Leclerc*, 1997 ND 47, 561 N.W.2d 644

Tribal Court

- *Thunder v. St. Paul Fire & Marine Ins.*, Northern Plains Intertribal Court of Appeals, Spirit Lake Nation, Spirit Lake Tribal Court, Civ. No. 08-10-269 (Mar. 2015)
- *Thunder v. St. Paul Fire & Marine Ins.*, Spirit Lake Nation, Spirit Lake Tribal Court, Civ. No. 08-10-269 (Sept. 11, 2013) (Order Granting Summary Judgment)
- *White v. Standing Rock Sioux Tribe*, Standing Rock Sioux Supreme Court, Standing Rock Sioux Indian Reservation, COMP 10-088 (Jul. 28, 2010)
- *Norquay v. Sky Dancer Hotel & Casino*, TMAC-07-007, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (Jul. 20, 2009)
- *Gillette v. Sky Dancer Casino*, TMAC-07-012, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (Feb. 22, 2008)
- *Marcellais v. Sky Dancer Hotel & Casino*, TMAC-07-009, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (Oct. 4, 2007)
- *Norquay v. Sky Dancer Hotel & Casino*, TMAC-07-007, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (Jul. 24, 2007)
- *Thomas v. Sky Dancer Hotel & Casino*, TMAC-07-005, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (Jul. 10, 2007)
- *Decoteau v. Turtle Mountain Band of Indians*, TMAC-07-003, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (Jul. 10, 2007)
- *Champagne v. Sky Dancer Hotel & Casino*, TMAC-07-006, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (Jul. 10, 2007)
- *Gourneau et.al. v. Turtle Mountain Band of Chippewa Indians*, TMAC-06-010, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (May 8, 2007)
- *Charboneau v. Sky Dancer Casino*, TMAC-06-015, Turtle Mountain Tribal Court of Appeals, Turtle Mountain Indian Reservation (Sept. 21, 2006)
- *Gillette v. Judge Conklin*, Northern Plains Intertribal Court of Appeals

Professional Affiliations

- State Bar Association of North Dakota

- Past member: North Dakota Pattern Jury Instruction Commission
- North Dakota Defense Lawyers Association
- American Health Lawyers Association
  - Health Information and Technology Practice Group
  - Health Care Liability and Litigation Practice Group
- American Bar Association
  - Litigation Section
  - Data Privacy & Security Subcommittee
  - Health Care Law Section
  - Past member: HITECH Task Force
  - Science & Technology Law
- Defense Research Institute
  - Data Management and Security
  - Government Enforcement and Compliance
  - Medical Liability and Health Care Law

Notable

Accolades

- Selected for inclusion in The Best Lawyers of America® in the areas of Litigation–Health Care, Medical Malpractice Law–Defendants, and Personal Injury Litigation–Defendants, 2022-2027
- Selected for inclusion in The Best Lawyers of America® in the area of Health Care Law, 2025, 2026, 2027
- Selected for inclusion in the Great Plains Super Lawyers® list, Thomson Reuters, 2013, 2020, 2022-2026
- Selected to Benchmark Top 250 Women In Litigation, 2012
- Awarded Martindale-Hubbell Distinguished Peer Review Rating

Publications

- Tracy Vigness Kolb, *Anatomy of an Incident Response and Data Breach—How Lawyers Can Plan and Prepare*, State Bar Association of North Dakota, 2016 Annual Convention (June 16, 2016).
- Tracy Vigness Kolb, *Technology Competence: The New Ethical Mandate for North Dakota Lawyers and the Practice of Law*, 92 N.D. L. Rev. 91 (2016).
- Tracy Vigness Kolb, *A Resource Guide: The HIPAA Privacy and Security Rule, Enforcement Rule, and HITECH Breach Notification Rule and North Dakota State Breach Notification Law*, 2013 (Updated 2015).
- *State Healthcare Privacy Law Survey*, American Health Lawyers Association, June 2013 (Contributing Author).
- *Cross-walk between current Business Associate Agreement and new HITECH Act requirements*, Security Compliance for Business Associates Subcommittee, ABA Health Law Section HITECH Task Force, Nov. 2009, Reissued May 2013

(Contributing Member of Subcommittee).

- Tracy Vigness Kolb, *"What Is HITECH?,"* The Gavel, State Bar Association Of North Dakota, Nov. 2009.
- Tracy Vigness Kolb, *"Will You Be Ready For HITECH Health Care?,"* Check Up, North Dakota Medical Association, June 2009.
- Honorable William A. Neumann, Tracy Vigness Kolb, *A Woman's Touch*, 72 N.D. L. Rev. 953 (1996) (Tribute article to retired Justice Beryl Levine).
- Agricultural Law/Economics Research Program, *Can North Dakota Grazing Survive A Wilderness Or Wild And Scenic Designation—Are There Cattle In Nature?* , 70 N.D. L. Rev. 509 (1994) (contributing authors David M. Saxowsky, Julie Evans Erjavec, Alice J. Mansell, and Tracy L. Kolb).
- Tracy Vigness Kolb, *North Dakota's Stalking Law: Criminalizing The Crime Before The Crime*, 70 N.D. L. Rev. 159 (1994).
- Tracy L. Kolb, Jon E. Strinden, and David M. Saxowsky, *Limited Liability Company: An Alternative Business Organization*, N.D. St. U. Dept. Agric. Econ., Agric. Econ. Misc. Rep. No. 172 (March 1994).

Presentations

- "Clearing The Smoke: Provider Concerns and Medical Marijuana," North Dakota Medical Association, Annual Convention (Oct. 4, 2019).
- "Anatomy of a Medical Malpractice Lawsuit: The Law and The Process," University of Mary-Physical Therapy (Sept. 30, 2019).
- "Clearing The Smoke: North Dakota's Medical Marijuana Law," Sanford/Good Samaritan Society, Claims Summit (Sept. 25, 2019).
- Ethics and Professionalism: "What to do when the game gets tough – What would Jimmy do," State Bar Association of North Dakota, State Board of Law Examiners, 2019 Bar Admission Ceremony (Sept. 23, 2019).
- "Legal Issues, Documentation & Risk Management," Bismarck State College, Surgical Technology (Sept. 17, 2019).
- "Clearing The Smoke: Provider Concerns and Medical Marijuana," University of North Dakota School of Medicine and Health Sciences (Apr. 10, 2019).
- "Protecting Client Communications in a Digital World," Legal Technology Bootcamp, University of North Dakota School of Law (Apr. 5, 2019).
- "Clearing The Smoke: North Dakota's Medical Marijuana Law" North Dakota Health Information Management Association, Annual Convention (Sept. 13, 2018).
- "Cannabis Confusion: North Dakota's Medical Marijuana Law and What It Means for Long Term Care as Providers and Employers," North Dakota Long Term Care Association, 2018 Annual Convention (May 2, 2018).
- "Health Care Volunteers and HIPAA—What They Can and Can't Do with PHI," Healthcare Auxiliaries of North Dakota, 2018 Annual Convention (Apr. 25, 2018).
- "Weed in the Workplace: North Dakota's Medical Marijuana Law and What It Means for Employers," North Dakota Hospital Association, 2017 Annual Convention (Oct. 4, 2017).
- Ethics and Professionalism: "What to do when the game gets tough – What would Jimmy do," State Bar Association of North Dakota, State Board of Law Examiners, 2017 Bar Admission Ceremony (Sept. 22, 2017).
- "Weeding Out The Confusion: North Dakota's Medical Marijuana Law," North Dakota Long Term Care Association, 2017 Annual Convention (May 5, 2017).

- “Civil Rights and Long Term Care: Nondiscrimination Under Section 1557 of the Affordable Care Act,” North Dakota Long Term Care Association, 2017 Annual Convention (May 3, 2017).
- “Compassionate Care in North Dakota: Medical Marijuana,” North Dakota Hospital Association, Webinar (Nov. 29, 2016).
- Ethics and Professionalism: “What to do when the game gets tough – What would Jimmy do,” State Bar Association of North Dakota, State Board of Law Examiners, 2016 Bar Admission Ceremony (Sept. 23, 2016).
- “Anatomy of an Incident Response and Data Breach—How Lawyers Can Plan and Prepare,” State Bar Association of North Dakota, 2016 Annual Convention (Jun. 16, 2016).
- “Technology Competence: The New Ethical Mandate for North Dakota Lawyers and the Practice of Law,” State Bar Association of North Dakota, Ethics IVN (Mar. 16, 2016).
- “The Regulatory Weight of HIPAA on Physicians and its Extension to Lawyers and Others Under HITECH: What Physicians, Lawyers and Their Clients Need to Know,” State Bar Association of North Dakota, Webinar (Jan. 12, 2010).
- “Social Media: Privacy And Other Legal Challenges For Healthcare Employers and Employees,” North Dakota Long Term Care Association, Administrator’s Conference (Dec. 2010).
- “Valid Requests For Records and Threats To Sue: How do you know and what should you do?,” North Dakota Long Term Care Association, Administrator’s Conference (Dec. 2010).
- “Insurers in the Crosshairs of Medicare: The Effect of Section 111 Mandatory Reporting on Negotiating and Settling Cases with a Medicare Interest,” Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 10, 2009).
- “Protecting Against Breaches And Detecting Red Flags: Reconciling And Complying With Federal And State Laws," North Dakota Medical Association and North Dakota Medical Group Management Association, 2009 Annual Meeting (Sept. 24, 2009).
- “Getting Ready For HITECH Health Care: Expanded Privacy & Security Rules, Breach Notification, Business Associates and Enforcement," North Dakota Hospital Association, Risk Managers Association, 2009 Annual Meeting (Sept. 9, 2009).
- “Getting Ready For HITECH Health Care: Expanded Privacy & Security Rules, Breach Notification, Business Associates and Enforcement,” North Dakota Hospital Association, BT WAN Conference (Aug. 25, 2009).
- “Negotiating And Settling Tort Cases With Medicaid Interests After *Arkansas Dept. of Health & Human Services v. Ahlborn:* Why It Can’t Be Done Without The State," Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 11, 2008).
- “Damages In Wrongful Death Actions," Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 7, 2006).
- “Discovery of Medical Information After HIPAA,” Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 8, 2005).
- Confidentiality of Medical Information, “Principles Of A Medical Record: Creating, Protecting, And Retaining" & “Overview of HIPAA,” Lorman Education Services (Feb. 6, 2004).
- “A Conciliatory Approach: Negotiating And Communication With Plaintiff’s Counsel To Resolve Cases Without Litigation," Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 5, 2002).
- Employment Management And Recordkeeping In North Dakota, “Sexual Harassment: Did It Occur? Is The Employer Liable?," Lorman Education Services (Oct. 15, 2002).
- Employment Management And Recordkeeping In North Dakota, “The Triangle Of Danger: The ADA, The FMLA, and North Dakota Workers Compensation Law," Lorman Education Services (Oct. 16, 2001).
- “Supreme Court Review," Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 7, 2000).
- “Loss Of Consortium: What Is It? Who Has It? Where Does It Come From?," Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 2, 1999).

- “What Has the North Dakota Supreme Court Been Up To This Year?," Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 3, 1998).
- “News From The Courthouse," Zuger Kirmis & Smith, Insurance Claims Seminar (Dec. 5, 1996).