

Health Care Controversies

Our health care controversies team provides clients with access to a team of experienced attorneys with the skills necessary to resolve complex disputes that arise in the health care industry.

Health care controversies represent the crossroads between adversarial proceedings, including litigation and administrative proceedings, and the highly regulated health care industry. A health care controversy can include major litigation involving health care providers, credentialing proceedings before licensing bodies, or disciplinary proceedings before the many state agencies with jurisdiction over providers. They include administrative and arbitration hearings and, if necessary, state or federal court appearances.

Regulators' increasing focus on the use of recovery-driven adversarial proceedings to enforce developing standards of compliance and fraud waste and abuse detection makes this a growing area of concern for clients in the health care industry. Now more than ever, health providers are likely to find themselves affected by investigations or enforcement proceedings that carry the risk of substantial, and even exponential, civil or criminal liability.

Our team of attorneys has years of experience representing clients in government investigations and regulatory proceedings, including Medicare and Medicaid, and in the litigated or adversarial proceedings they can spawn. They have the required aggressive litigation skills and thorough knowledge of substantive health care laws.

Focused Legal Services for the Specialty Pharmacy Industry

Our health care controversies attorneys provide clients in the pharmacy industry with access to experienced legal counsel with the combined skills of a large health care law practice and the deep bench and gravitas of a sophisticated litigation team that are critical in this complex, high-stakes field.

Controversies affecting the industry involve all types of adversarial proceedings, including litigation, negotiation, arbitrations, appeals, and administrative proceedings. Pharmacy-related disputes often involve bet-the-company legal problems that require an urgent response. Most recently, in the private sector, independent pharmacies of all kinds face the near-daily challenges of PBM overreaching in network management.

Regulators' increasing focus on the use of recovery-driven adversarial proceedings to enforce developing standards of compliance and fraud, waste, and abuse detection is another growing area of concern for our clients in the industry. Now more than ever, industry professionals are likely to find themselves affected by investigations or enforcement proceedings that carry the risk of substantial, and even exponential, civil or criminal liability, requiring the focused skillset of our pharmacy law and litigation team.

Our team of attorneys has years of experience representing clients in government investigations and regulatory proceedings and in the litigated or adversarial proceedings they can spawn. We have the required strong litigation skills and thorough knowledge of all applicable laws and have chosen the representation of pharmacies over engagements with payors, PBMs, and other adverse market participants so we can be at the ready for our pharmacy clients.

From navigation of barriers to network entry to aggressive audit tactics and defense of termination proceedings, our team stands behind our clients, ready to seek injunctive relief, arbitration action, or other remedies required to protect and maintain the status quo in the best interest of patients and pharmacy providers.

Our pharmacy clients are also aggressively and routinely represented by our intellectual property litigation team in matters that include patent litigation, patent office proceedings, and trademark litigation; by our mass and toxic torts team; and in numerous other areas.

New York State Justice Center Matters

Barclay Damon's health care controversies team has represented numerous not-for-profit and for-profit entities and individuals in investigations commenced by the NYS Justice Center for the Protection of People With Special Needs. Our attorneys provide management and staff with training related to their duty to report and their rights and obligations related to Justice Center investigations and have also provided management with recommendations for responding to and complying with Justice Center requests. Additionally, our team has experience advising on issues related to a provider's civil liability in situations where a Justice Center investigation has the potential to result in a substantiated finding.

Barclay Damon has represented providers and individuals from the initial Justice Center reporting of allegations of abuse or neglect through the completion of the administrative appeals process. Our attorneys advocate for transparency in Justice Center investigations and in the disclosure of statutorily mandated investigative files, ensuring that subjects of abuse or neglect charges have the information necessary to refute allegations.