

OUR PRACTICE

Behavioral Health and Substance Use Disorders

The behavioral health landscape is experiencing unprecedented growth, due in part to increasing demand for services, improving reimbursement and evolving technology and patient engagement opportunities. Evaluation of the shifting legal landscape and emerging opportunities for mental health and substance use disorder treatment providers calls for an experienced legal team that understands your business and your needs. Baker Donelson's behavioral health attorneys provide a full range of services to our clients in this industry, recognizing the unique challenges and potential that behavioral providers navigate and creating seamless solutions that cover your entire operations.

Baker Donelson has experience across the continuum of behavioral health care and is well-positioned to advise provider clients on the legal and policy issues that matter most to inpatient and outpatient behavioral health treatment programs, psychiatric units of med-surg hospitals, partial hospitalization programs (PHPs), group homes, substance use disorder treatment facilities and behavioral health professionals. Our experienced attorneys assist clients with structuring and executing strategic transactions, licensure and Medicare/Medicaid enrollment issues, addressing unique employment issues, responding to litigation and government inquiries, handling involuntary commitments, complying with privacy obligations including HIPAA and Part 2, managing survey and certification and licensure issues, preventing and addressing EMTALA violations, navigating the reimbursement process, and providing compliance training, among other regulatory and corporate concerns.

The breadth of Baker Donelson's geographic reach and the depth of our expertise seamlessly connect our offices and attorneys to serve virtually any legal and policy need for behavioral health providers.



Representative Matters

Transactional

- Represented management in a \$260 million recapitalization of a behavioral health company by a private equity fund.
- Represented a private equity-backed alcohol and drug treatment company in acquisitions of multiple inpatient and outpatient facilities in multiple jurisdictions.
- Provided counsel to a company in the alcohol and drug treatment industry in connection with a \$55 million private equity investment.
- Handled the corporate reorganization of a multi-facility behavioral health system and the spin-off of residential treatment centers.
- Handled the sale of a multi-facility behavioral health care company to a national behavioral health company.
- Handled the leveraged recapitalization of a multi-facility behavioral health and hospital company.
- Provided health care regulatory and privacy diligence in private equity transactions and mergers and acquisitions.
- Represented a behavioral health startup company in its corporate reorganization and related expansion into new jurisdictions, including creation of and licensing new entities and financing support.

Operational and Regulatory

- Serves as outside general counsel to multiple behavioral health clients, including multi-facility behavioral hospital systems and multi-state alcohol and drug treatment centers.
- Represents behavioral health hospitals in employment and professional liability litigation.

- Represents a nationally recognized behavioral health provider on matters including regulatory analysis, HIPAA compliance, and litigation.
- Conducts privacy and security analyses under federal and state laws, rules and regulations including HIPAA and HITECH.
- Provides advice on federal and state law compliance affecting behavioral health providers, including with respect to licensing, corporate practice of medicine, the Stark Law, the Anti-Kickback Statute, state level fraud and abuse rules, fee-splitting, and the Eliminating Kickbacks in Recovery Act.
- Provides intellectual property and health care regulatory advice for developers of behavioral health apps and telehealth platforms.
- Assists behavioral health clients in establishing or restructuring telehealth programs to comply with practice of medicine and licensing issues across state lines, as well as negotiating service agreements for telehealth platforms.
- Develops risk management and corporate compliance programs in accordance with industry best practices and legal standards.
- Provides advice and counsel with respect to self-disclosures, government investigations, audits or enforcement actions, False Claims Act and qui tam actions.
- Counseling clients on licensure and Medicare/Medicaid enrollment or certification matters, including evaluation of staffing requirements and necessary supervision models for non-physician practitioners.
- Provides counsel on federal and state reimbursement matters, including providing advice with respect to proper billing and assisting with investigations and self-disclosures of overpayments.
- Provides clients with general contracting support, including with respect to employment and vendor agreements.
- Represented a private mental health treatment provider regarding employment issues related to inpatient and IOP programs across the United States, including integration of an acquired company's policies into the client's policies, employee disputes, employment litigation, legal obligations of the company regarding employees with drug/alcohol addictions, and handling complaints while considering and ensuring confidentiality of patients.
- Successfully represented a client in administrative and court proceedings to obtain a Certificate of Need for a new behavioral health hospital in Tennessee.
- Provided counsel on federal and state mental health parity laws.
- Negotiated payor contracts and advised with respect to payor disputes regarding reimbursement or payor contracts.