



# Brad Gallagher

*Partner*

*Albany*

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## Education

- Syracuse University College of Law, *Cum Laude*, JD
- Pennsylvania State University, BA

## Practices & Industries

- Health Care Controversies
- Health Care
- Commercial Litigation & Complex Trials
- White Collar & Government Investigations

## Admitted to Practice

- New York
- New Jersey

## Court Admissions

- US District Court for the District of New Jersey
- US District Court for the Eastern District of New York
- US District Court for the Northern District of New York
- US District Court for the Southern District of New York

## Biography

Brad is co-leader of Barclay Damon's Health Care Controversies Team. He concentrates his national practice on providing legal services to clients in the pharmaceutical industry, including independent retail, chain, specialty, infusion and compounding pharmacies, as well as health care systems. Brad also represents wholesalers, manufacturers, technology companies, and others with legal, regulatory, and compliance issues in the pharmacy space. He represents other health care providers, including physicians, laboratories, and durable medical equipment (DME) providers, with issues relating to network participation and reimbursement issues.

Brad counsels clients nationwide on issues with health plans, pharmacy benefit managers (PBMs), and government entities, such as credentialing and enrollment, audits and investigations, network terminations, and reimbursement disputes. Specifically, Brad has assisted providers in overturning enrollment denials and with the recovery of millions of dollars for providers following challenges to audit findings or improper reimbursements.

Brad also counsels clients in matters pertaining to contract management, best practices, and other business-related issues, with a focus on those entities operating in the pharmaceutical industry. For example, Brad assists clients in understanding and evaluating risks with data privacy and security, marketing and payment models, and interplay with other agreements entered by the client.

Brad represents entities in pharmacy- and other health care-related transactions, including those involving private and chain sales or private equity. Brad also assists entities with corporate formation, due diligence, licensing, and credentialing.

## Bar Associations

- New York State Bar Association, Reimbursement, Enforcement, and Compliance Committee, Member

## Selected Memberships & Affiliations

- National Association for Specialty Pharmacy Legal Committee, Member

## Representative Experience

- Assisted pharmacies with PBM and the NYS Office of the Medicaid Inspector General (OMIG) various types of audits and investigations.
- Successfully recovered tens of millions of dollars on behalf of pharmacy clients and other health care providers in improper recoupments and chargebacks.
- Negotiated settlements of fee dispute and claims reimbursement issues, including generic effective rate (GER), on behalf of pharmacies and other providers.
- Obtained injunctions and orders against PBMs prohibiting networks' terminations and illegal withholds.
- Developed best practices and compliance policies for clients and providing guidance on internal self-audits and corrective action plans (CAP).
- Assisted providers with licensing, network enrollment, and credentialing.
- Lead a health care transactional team in purchasing and sales of pharmacies, DME providers, and other health care entities nationwide. The team has successfully completed sales ranging from small into the high eight figures to individuals, corporations, chains, and private equity.
- Assist entrepreneurs, innovators, and start-ups with navigating the health care compliance and regulatory risks in the pharmaceutical marketplace.
- Assist health care clients in understanding and evaluating risk in agreements with third-party payors, hubs, and other vendors on issues including cybersecurity, data security, marketing, kickbacks, audit and termination rights, and other issues.
- Defended an assisted living residence (ALR) against allegations that it operated as an unlicensed residential health care facility and nursing home in violation of state and federal laws. Obtained a favorable settlement among the multiple plaintiffs, insurance companies, and co-defendants.
- Obtained dismissals of complaints alleging dental malpractice against the facilities and the dentists providing care.

- Represented a health care provider in an audit of patient records by an insurance company that alleged approximately \$400,000 in overpayments. The insurance company rescinded its determination regarding the overpayment, and the client was not required to repay any of the alleged overpayments.

## Prior Experience

- Landman Corsi Ballaine & Ford PC, Of Counsel
- US District Court for the Northern District of New York to Magistrate Judge George Lowe, Intern

## Judicial Clerkships

- Superior Court of New Jersey, Judge Stuart Peim

## Selected Community Activities

- City of Saratoga Springs, Zoning Board of Appeals, Vice Chair

## Selected Speaking Engagements

- Association of Value-Based Cancer Care Summit, "PBM Litigation and Legislation Updates"
- National Association of Specialty Pharmacy (NASP), Specialty Pharmacy Law Conference, "Preserving the Trust: Protecting the Security, Privacy & Unauthorized Use of Your Pharmacy's Data"
- "Hacked! – Securing Your Pharmacy Data and Handling the Breach," presented at:
  - National Association of Specialty Pharmacy (NASP) Annual Convention
  - National Community Pharmacists Association (NCPA) Annual Convention
  - Pharmacists Society of the State of New York, Inc. Annual Convention
  - Northwest Pharmacy Convention
  - Texas Pharmacy Association Conference & Expo
- National Association of Specialty Pharmacy (NASP), Lunch With a Lawyer, "PBM Audits Gone Awry: Avoid Adverse Results by Successfully Preparing for and Responding to Audits"
- National Association of Specialty Pharmacy (NASP), Specialty Pharmacy Law Conference, "Let's Make a Deal: Ensuring a Smooth Transaction"

## Selected Media

- *Beyond the Scripts* Pharmacy Podcast, "Pharmacy Protection Playbook: From Contracts to Compliance With Brad Gallagher and Shahida Choudhry"
- Pharma IQ, "Strengthening Cybersecurity in the Pharmaceutical Industry"
- National Association of Specialty Pharmacy's *NASP Podcast*, "Building Relationships: Talking PBM Reform and Specialty Pharmacy"
- *Pennsylvania Capital-Star*, "Pa. Legislators Passed a Law to Regulate Pharmacy Middlemen. But the State Doesn't Enforce It."
- *Pharmacy Technology Report*, "Protect Patient Data From Cyber Threats"
- *New York Law Journal*, "NY Proposes New Rules to Rein In Pharmacy Benefit Managers"
- *Specialty Pharmacy Continuum*, "Don't Let a Cyberattack Destroy Your Pharmacy"
- *USLAW Magazine*, "The SCOTUS *Rutledge* Opinion: Pharmacy Benefit Managers Cannot Duck Pro-Patient State Reform Laws Using ERISA Preemption Arguments"

## Selected Alerts & Blog Posts

- New York's New Pharmacy Regulations: Major Win for Independent Pharmacies and Consumers
- New Regulations Proposed in New York State: DFS Renews Efforts to Enact PBM Reforms to Level the Playing Field for Independent Pharmacies
- Will Federal Precedent and Newly Announced NYS PBM Reform Efforts Collide?
- New York State Medicaid Transition From Managed Care to NYRx Will Subject Pharmacies to OMIG Audits—Compliance Vigilance Required!
- Third Circuit Ruling Recognizes Due Process Claim in Favor of Drug Distributors Subjected to Quasi-Governmental Credentialing Standards