



Keith Brennan

He | Him | His

Of Counsel

Albany, New York

P: 518.429.4290

kbrennan@barclaydamon.com

Education

- Emory University School of Law, JD
- State University of New York at Albany, BA

Practices & Industries

- Health & Human Services Providers
- Health Care
- Health Care Controversies

Admitted to Practice

- New York

Biography

Throughout his 20-plus-year career, Keith has gained a wide range of experience in all aspects of health care program development, implementation, and litigation from the provider level to the governmental level. A skilled litigator, Keith has been involved in complex litigation matters, including institutional reform cases and class-action lawsuits. He is an experienced navigator of HIPAA and other state and federal confidentiality laws. Keith also has experience with matters involving third-party discovery, subpoenas, and Freedom of Information Law (FOIL) requests.

Keith has particularly deep knowledge of the New York State Mental Hygiene Law and its associated regulations, standards, and procedures. He has been directly involved in the legislative process, including the continuation of assisted outpatient treatment (Kendra's Law), and the development of the behavioral health component of the SAFE Act.

In his former position as assistant counsel with the New York State Office of Mental Health (OMH), Keith gained firsthand experience with the tsunami of integration and consolidation in the health care world. He was involved in numerous major hospital system reorganizations, affiliations, and mergers as well as the rapid growth of managed care in the provision of behavioral health services.

While working with OMH, Keith contributed to the successful development and implementation of joint licensure regulations, standards pertaining to the co-location of programs, and regulations permitting the use of telehealth for the delivery of behavioral health programs. He also led OMH's response to several emergency program failures and helped develop a protocol for emergency program transitions. Keith has acted as a liaison to state agencies, judges and court personnel, law enforcement, and local government officials regarding program failures.

During the COVID-19 pandemic, Keith was involved in efforts to develop regulatory flexibility benefiting service providers with respect to treatment planning, service delivery, confidentiality, and documentation. He was also involved in efforts to expand the use and availability of telehealth for the delivery of behavioral health services and in developing guidance with respect to the involuntary removal and retention of persons under Article 9 of the New York State Mental Hygiene Law.

Additionally, Keith served as a member of OMH's Emergency Response/Management Team and was redeployed to the agency's emergency response command post on 9/11 and during Hurricanes Irene and Sandy.

Representative Experience

- Spearheaded regulatory enforcement actions, including revocations, suspensions, and administrative hearings.
- Successfully negotiated resolutions to numerous regulatory actions and sanctions.
- Represented a former employer agency in numerous hearings before the New York State Division of Human Rights.
- Involved in the legislative renewal process with respect to Kendra's Law in 2005 and 2010 and during the passage of the New York SAFE Act in 2013, which included amendments to Kendra's law.
- Managed litigation handled by the New York State attorney general, such as matters concerning state financial recoupment efforts and proceedings relating to Article 9 of the New York State Mental Hygiene Law.
- Involved in the monitoring and surveillance of licensed and funded programs.
- Provided guidance concerning the licensure process, licensing and regulatory standards, and the monitoring and oversight of licensed programs to providers, local governments, and state legislative and agency officials.

Prior Experience

- The Child Center of NY, General Counsel
- New York State Office of Mental Health, Assistant Counsel

Selected Speaking Engagements

- Institute for Behavioral Healthcare Improvement National Update on Behavioral Emergencies Conference Presentation
- Substance Abuse and Mental Health Services Administration/Gains Center Community of Practice Webinar
- Substance Abuse and Mental Health Services Administration/Gains Center Community of Practice Webinar
- *Trueblood* Diversion Services Summit Presentation
- Office of Court Administration Judicial Institute CLE

Selected Media

- New York State Bar Association *Health Law Journal*, “Recent Developments Under Kendra’s Law”
- *Guardianship Practice in New York State*, “Chapter 1C: Kendra’s Law: Assisted Outpatient Treatment in New York”
- *New York State Assisted Outpatient Treatment Program Evaluation*, “Appendix A: Kendra’s Law Overview and Statute”

Selected Alerts & Blog Posts

- NYS Governor Hochul Announces Final RFP for New Certified Community Behavioral Health Clinics
- New Details About OPWDD Spending in the New York State FY 2025 Executive Budget
- Behavioral Health Spending in the New York State FY 2025 Executive Budget
- NYS DOH, OMH, OASAS, and OPWDD Providers: Don't Overlook This Opportunity for Technology-Transformation Funding
- The New York Office of Mental Health Is Creating Historic Opportunities for Housing Providers—Don't Forget About the Padavan Law!