Curriculum Vitae

KEVIN L. O'BRIEN
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SUMMARY

Mr. O'Brien is an executive director and co-founder of Berkeley Research Group, LLC (BRG) specializing in accounting, financial, economic, operational and regulatory consulting services to a variety of industries including healthcare, health insurance and pharmaceuticals. Prior to joining BRG, Mr. O'Brien was a managing director with LECG, LLC, a partner with Resolution Economics, LLC, and a managing director with Navigant Consulting, Inc. He was also a Senior Consultant at Ernst & Whinney, a Controller at Allied International Holdings Corporation and a First Lieutenant in the United States Marine Corps.

Mr. O'Brien has extensive experience with healthcare reimbursement methodologies and processes including, among others, Medicare, Medicaid, Tricare, commercial and private pay insurance products. He has assisted providers and payors with the financial and operational aspects of contracting. For example, he has developed detailed financial models related to contract terms and conditions and has advised payors and providers of the potential impact of the contract on organizational profitability. Additionally, he has assessed contract terms in conjunction with operational and compliance requirements.

Mr. O'Brien's engagements have included assisting with the development of the Medicaid reimbursement manual for the State of Pennsylvania, defining economic and efficient payors and providers of healthcare services, as well as assessing the reasonableness and accuracy of the Medicaid budgets and the reimbursement methodologies for numerous states. He was appointed by the Tennessee Department of Commerce and Insurance ("TDCI") on several occasions to review the operations and financial condition of managed care organizations participating in the TennCare program, Tennessee's Medicaid Managed Care program. Additionally, he was appointed to the TennCare Claims Processing Panel for the purpose of assisting providers and payors in resolving claims payment disputes and to develop and recommend policies and procedures to streamline claims submission and payment practices. He has provided consultative or expert services for numerous other State Medicaid programs. Much of his work in this regard revolved around the development and assessment of Medicaid reimbursement rates and allowable costs.

Mr. O'Brien has been engaged in numerous matters involving behavioral health providers. These engagements have included, among others, assessing compliance with the provision of care outlined in the individualized plans of care. He has assisted clients and counsel in analyzing condition of participation and condition of payment requirements relative to government sponsored programs. Further, he has performed statistically valid claim audits and has conducted financial analyses in conjunction with behavioral health contracting.

Mr. O'Brien's engagements have included a review of the financial condition and operational aspects of numerous payors (i.e., Government, Commercial, Workers Compensation and Self-Insured Plans) and other Health Service Organizations (HSOs). These HSOs have included hospitals, skilled nursing facilities, assisted living facilities, continuing care retirement centers, physician practices, durable medical equipment companies, pharmacy benefit management companies and many others. If applicable, these engagements involved the comprehensive review of each HSO's contracting, claims/billing processing, finance, medical review and utilization review, provider relations, customer service, contracting and member services departments, among others. These engagements included numerous interviews with regulators, HSO personnel and other

constituencies. The completion of these projects resulted in the development of corrective action plans and other forms of written reports and Expert testimony.

Mr. O'Brien has extensive experience in analyzing the solvency of numerous organizations including those involved in the healthcare industry. He has reviewed the financial condition of companies in determining the organization's ability to continue as a "going concern." He has assessed the company's capability to pay its current obligations as they become due. This analysis includes, among others, determining the organization's debt and equity structure, calculating current ratios, quick ratios, asset turnover ratios, inventory turnover ratios, days in accounts payable, days in accounts receivable, days' cash on hand, etc. Mr. O'Brien has advised on issues relating to restatement of the assets and liabilities of various entities to represent their fair values. These analyses were performed in conjunction with determining whether the entity's liabilities exceed its assets. Additionally, he has quantified the value of certain assets assuming a liquidation sale. Much of this work has been performed in conjunction with reviewing various debtors' plans of reorganization. In this regard, Mr. O'Brien has provided Expert testimony in Federal Bankruptcy court.

Mr. O'Brien has performed patient origin studies and competitive analyses. He has performed market share analyses, demand studies and has defined the primary service area and secondary service area for multiple healthcare clients. Additionally, Mr. O'Brien has calculated and analyzed multiple claims for lost profits and business interruption resulting from casualty losses. He has analyzed the reasonableness of projected and pro forma revenues and the underlying cost structure required to support future sales. Mr. O'Brien has determined the overall financial health of businesses. His experience includes the valuation of numerous businesses utilizing the asset, market, and income approaches. He is familiar with the pertinent differences between the markets for closely held and publicly traded companies. He has estimated the market-required rate of return on equity, the beta for closely held stocks and discount rates for overall capital.

Mr. O'Brien is experienced in conducting fair market value and commercial reasonableness assessments of financial relationships between physicians and health service organizations including physician compensation agreements across numerous specialties. He has performed fair market value and commercial reasonableness assessments for numerous healthcare clients and has assessed, among others, medical directorship agreements, physician on-call coverage arrangements, key opinion leader speaker agreements, and joint venture agreements. These valuations are often performed in conjunction with Stark and anti-kickback assessments.

Mr. O'Brien has provided cost management advice to the healthcare and pharmaceutical industries in such areas as strategic planning and resizing. He has prepared financial feasibility and debt capacity studies for the construction and renovation of acute care multi-facility systems, psychiatric hospitals, skilled nursing facilities, intermediate care facilities, continuing care retirement centers, adult congregate living facilities, outpatient diagnostic centers and emergency room facilities. He has performed valuations in conjunction with physician joint ventures, mergers, acquisitions, leveraged buyouts and pharmaceutical products and failed product launches.

In the area of managed care, Mr. O'Brien has developed and monitored financial and operational budgets for health maintenance organizations (HMOs), hospitals, independent practice associations (IPAs), pharmacy benefit management (PBM) and pharmaceutical organizations, among others. He has performed systems reviews and implementations and has recommended changes in internal control resulting in improved operational efficiencies and safeguards over plan and program assets. He has also performed contract reviews, rate setting, profit improvement, and operations studies to identify the reasons for lack of profit and determine means of improving profits or eliminating losses.

Mr. O'Brien is experienced in matters involving healthcare related claims (both insurance, such as Blue Cross/Blue Shield and government paid programs), benefit determinations, rate setting and operational efficiencies. These engagements have included both contract compliance, operational reviews, financial reviews

and special investigations and have involved issues related to claims and correspondence processing and cost charging.

Analyses of claims and benefit processing activities have considered such issues as the accuracy and timeliness of claims processing, payment edits and audits, coordination of benefits (e.g., Medicare Secondary Payor), refunds, discounts, duplicate payments, etc. Additionally, Mr. O'Brien has extensive knowledge of the Chief Financial Officers' Act and the Federal Managers' Financial Integrity Act, as well as the General Accounting Office's "Standards for Internal Control in the Federal Government." He has performed reviews related to operations efficiency, accounting for financial transactions, management reporting, cash management reconciliations and controls over Trust Funds. He is familiar with the procedures used to identify instances of beneficiary and provider fraud. In addition, he has analyzed contractor performance and transaction processing in the context of that agency's performance measurement standards, as well as evaluated the results of those performance measurements in the context of his findings on internal controls and procedures.

Several of Mr. O'Brien's claims and health benefit engagements have required a detailed understanding of the Employee Retirement Income Security Act of 1974 (ERISA). For example, he has reviewed employee benefit structures, assessed the responsibilities and duties of plan sponsors and plan administrators and reviewed summary plan descriptions (SPD), summary of material modifications (SMM) and Form 5500s, among others. Additionally, Mr. O'Brien has assisted with issues related to adverse benefit determinations and has ascertained the characteristics of fully-insured products versus self-funded plans. He has testified on damages matters arising as a result of alleged ERISA violations.

Mr. O'Brien has lectured to Medicare contractors, insurance companies and large health systems on the topics of internal control compliance reviews, fraud and abuse and the claims adjudication process. He has led teams which created large claim databases from files downloaded from the intermediaries'/carriers' claims and client computer systems. These databases were then used to perform both substantive testing and as the source for statistically developed samples which were used to perform compliance testing. Sampling plans were developed, populations were analyzed to determine how they should be stratified, statistically valid samples were drawn, detailed transactions within the sample tested and results of testing summarized and evaluated to determine extrapolation to the underlying population. He has also analyzed the cost of program administration for reasonableness, contractual allowability and allocability. He has provided recommendations resulting in improved effectiveness and efficiency. Mr. O'Brien and his staff have also assisted management in the development of corrective action plans and the monitoring and measuring of performance against those plans. Mr. O'Brien has also assisted clients and counsel through formal and written presentation of the team's findings to government investigators and other personnel.

In the area of pharmaceuticals, Mr. O'Brien has provided consulting and expert services to manufacturers, distributors, re-packagers, wholesalers, retailers, pharmacy benefit management (PBM) companies and various regulatory bodies. He has assessed various pricing strategies, rebate formulae and inventory tracking methodologies. Specifically, Mr. O'Brien has analyzed pharmaceutical product markets, valued pharmaceutical products in conjunction with co-promotion agreements and performed compliance, internal control, and operational reviews of numerous pharmaceutical clients.

Mr. O'Brien has experience with the Medicare Part D drug program enacted as part of the Medicare Prescription Drug, Improvement and Modernization Act (MMA) of 2003. He has worked with contractors to the Centers for Medicare and Medicaid Services (CMS) in developing "risk corridors" for Part D plans and has drafted portions of the Part D fraud and abuse manual.

Mr. O'Brien's experience in product pricing includes an understanding of several pricing methods, such as AWP, AMP, ASP, WAC, MAC, Best Price, FAMP, and FSS. He has experience with the Medicaid Drug Rebate Program.

Mr. O'Brien has provided litigation support services and Expert testimony in conjunction with numerous healthcare, health insurance and pharmaceutical class action matters. Specifically, he has analyzed data in conjunction with class certification motions. These analyses have assessed Rule 23(a) requirements and the plaintiff's ability to demonstrate numerosity, commonality and typicality. Also, he has prepared and reviewed class action damage calculations.

Mr. O'Brien has advised counsel and clients in the areas of investigative accounting, reconstruction of events, damages modeling of business transactions, business fact-finding relative to the issues in dispute and transaction tracing. In the area of special purpose investigations, Mr. O'Brien has addressed the impact of mismanagement, as well as personal use and/or loss of corporate assets via fraud or criminal activities. The results of this work have led to expedited settlement of disputed issues and claims against directors and officers.

Mr. O'Brien has prepared sensitivity analyses and alternative damage calculations by identifying critical assumptions included in the damage calculation. These analyses have address liability issues and have addressed issues relating to the reasonableness of alleged damages.

Mr. O'Brien has substantial systems experience. Specifically, Mr. O'Brien was responsible for financial statement preparation, general ledger accounting and system design and implementation while assistant controller for a property and casualty insurance company. Mr. O'Brien has performed detailed needs analysis, identified feasible hardware and software alternatives, developed evaluation criteria, selected system requirements, performed system implementations and provided post implementation monitoring. These implementations have included insurance premium quotation systems, loss-reserving modules, automated claims processing, general ledger packages and accounts receivable and accounts payable subsidiary ledgers. Additionally, Mr. O'Brien has performed internal controls and compliance reviews and has recommended changes resulting in improved effectiveness and efficiency.

EDUCATION

MHSA (Health Service Administration)	Saint Joseph's College of Maine, 2001
MS (Systems Management)	University of Southern California, 1986
BS (Accounting)	Michigan State University, 1982

CERTIFICATIONS

Certified Fraud Examiner

Certified Internal Controls Auditor

Certified Valuation Analyst

Master Analyst in Financial Forensics

EMPLOYMENT HISTORY

Berkeley Research Group, LLC

Executive Director & Co-Founder, 2018-Present

Ex-Officio Member Board of Directors, 2018-Present

Board of Directors, 2014-2017

Managing Director & Co-Founder, 2010-2017

LECG, LLC; Economics and Finance

Managing Director, 2009-2010

Resolution Economics, LLC

Partner, 2008–2009

LECG, LLC; Economics and Finance

Managing Director, 2002-2008

Peterson Consulting, a unit of Navigant Consulting, Inc.

Partner, 1989-2002

Ernst & Whinney

Senior Consultant, 1987-1989

Allied International Holdings Corporation

Controller, 1986-1987

United States Marine Corps

Disbursing Officer, Agent to the United States Treasury, 1983-1986

OVERSIGHT POSITIONS

Court Appointed Consultant to the Creditors Committee – Granada Hills Community Hospital Los Angeles

Provided oversight responsibility related to activities conducted by the Debtor and Debtor Consultants. Responsibilities included cash controls, contracting, accounts receivable, accounts payable, fixed assets, etc. Guidance as to the plan of reorganization was provided to the committee members.

Supervisor Xantus Healthplan of Tennessee, Inc.

Appointed by the Tennessee Department of Commerce and Insurance (TDCI) to provide operational and financial oversight of a 160,000 Medicaid Managed Care Organization and assisted the rehabilitator in developing strategies, controls and plans related to a voluntary rehabilitation.

Lead Examiner – Access MedPlus

Appointed by the Tennessee Department of Commerce and Insurance to lead and conduct financial and operational reviews of a 300,000+ member managed care organization.

TennCare Claims Processing Panel

Appointed as a participant to the TennCare Claims processing panel by the Deputy Chief of TDCI to assist in resolving disputes between payors and providers of healthcare services.

Independent Review Organization – Alpha Respiratory, Inc.

Appointed to oversee compliance with the terms and conditions of certain aspects of the Corporate Integrity Agreement.

Independent Review Organization – Lincare Holdings, Inc.

Appointed to oversee compliance with the terms and conditions of certain aspects of the Corporate Integrity Agreement.

Independent Review Organization – Orlando Regional Healthcare Systems, Inc.

Appointed to oversee compliance with the terms and conditions of certain aspects of the Corporate Integrity Agreement.

RECENT TESTIMONY EXPERIENCE

Consolidated Case Nos. 01-18-0003-7424, 01-18-0001-5134, and 01-18-0001-6915

In the Matter of and Among, UnitedHealthcare Insurance Company, Envision Healthcare Corporation and Sheridan Healthcorp, Inc.

Deposition Testimony

August 30, 2022

Hearing Testimony

October 4, 2022

Case No. 1:19-cv-01031-MSN-TCB

Plymouth County Retirement System and Oklahoma Police Pension and Retirement System, Individually and On Behalf of All Others Similarly Situated, Plaintiffs, v. Evolent Health, Inc., Frank Williams, Nicholas McGrane, and Seth Blackley, Defendants.

Deposition Testimony

June 22, 2022

Case No. 5:17-CV-00600-J

Emergency Services of Oklahoma, PC, Oklahoma Emergency Services, PC, Emergency Services of Mid-America, PC, and South Central Emergency Services, PC, Plaintiffs, v. Aetna Health Inc., Aetna Health Insurance Company, and Aetna Life Insurance Company, Defendants.

Deposition Testimony

October 22, 2021

Civil Action No. 2:12-cv-00145

United States of America, ex rel. J. William Bookwalter, III, M.D., Robert J. Sclabassi, M.D., and Anna Mitina v. UPMC; UPP, Inc. d/b/a UPP Department of Neurosurgery.

Deposition Testimony

September 15, 2021

Case No. 01-19-0000-5262

St. Elizabeth's Hospital of the Hospital Sisters of the Third Order of St. Francis and Harmony Health Plan, Inc.

Deposition Testimony

September 3, 2020

Case No. 4:17-CV-492-KGB

Southeastern Emergency Physicians, LLC v. Arkansas Health & Wellness Health Plan, Inc.; Celtic Insurance Company d/b/a Arkansas Health & Wellness Insurance Company; Novasys Health, Inc.; and Centene Corporation

Deposition Testimony

May 13, 2020

August 3, 2020

In Re Opioid Litigation, 400000/2017

Relating to Case Nos. County of Suffolk, 400001/2017; County of Nassau, 400008/2017; and New York State, 400016/2018

Deposition Testimony

March 5, 2020

Case No. 25CI1:17-cv-00465-WLK

Southeastern Emergency Physicians LLC, and ACS Emergency Services of Mississippi, Professional Association v. Ambetter of Magnolia, Inc.

Deposition Testimony

February 28, 2020

Case No. 18cv1456

MSP Recovery Claims, Series LLC et al v. AIX Specialty Insurance Company

Deposition Testimony

December 9, 2019

Civil Action No. 3:16-CV-622-CWR-FKB

United States of America v. The State of Mississippi

Deposition Testimony

December 18, 2018

Trial Testimony

June 14, 2019

PRESENTATIONS AND PUBLICATIONS

"Best Practices for Lawyers and Experts in Health Care Fraud Investigations, Self-Reporting, and Lawsuits." American Health Lawyers Association. September 2018.

"Three Day Rule for Outpatient Services" (with Russell T. Manns), Atlantic Information Services, Inc. Washington, D.C. Copyright 1999

"What a Compliance Officer Should Know about the New HIPAA Regulations" (with Tri MacDonald), Today's Corporate Compliance for the Health Care Professional, an HCCA Publication. Volume two Number five; May 2000

"Tackling the New HIPAA Regulations" Back to Basics, June 2000

"Acquiring an HSO: A Guide to Determining the Value of Health Care Entities" (with Cherie M. Fieri), Managed Care Law Strategist, Law Journal Newsletters. October 2001

"The Valuation of Healthcare Entities: A Three Step Process" Expert Insight Inc. Magazine. October 2001

PROFESSIONAL AFFILIATIONS

American Bar Association – Health Law Section

American College of Healthcare Executives

American Health Lawyers Association

America's Health Insurance Plans

American Institute of Healthcare Compliance

Association of Certified Fraud Examiners

Health Care Compliance Association

Health Care Financial Management Association

Hillsborough County Bar Association

The Institute for Internal Controls

Medical Group Management Association

National Association of Certified Valuation Analysts

Radiology Business Management Association