



**JOSEPH T. KELLEY  
 III**  
**Principal and Chair of the  
 Privacy and Data Protection  
 Practice Group, Philadelphia**



**PRACTICE AREAS**

- Cannabis Law
- Health Care Law
- Privacy and Data Protection

**EDUCATION & ADMISSIONS**

- J.D., Villanova University School of Law
- B.A., Tulane University
- Pennsylvania
- New Jersey

**PRESENTATIONS AND  
 EVENTS**

- *Marijuana and Federalism*, Panel hosted by the Federalist Society at Rutgers Law School, Camden, NJ (November 9, 2017).
- *Affinity Bio Partners and Affinity BioCeuticals' Medical Cannabis Clinical Trial Symposium*, Symposium hosted at the Sofitel Philadelphia, PA (December 8, 2017).

**PRACTICE FOCUS**

For 20 years Mr. Kelley has focused his practice on health care and privacy. He chairs Offit Kurman’s Privacy and Data Protection Practice Group and helped to found the firm’s Health Care Practice Group. He counsels clients on all health, privacy and security, technology, and cannabis industries and serves as general counsel to businesses in the health care, cybersecurity, and medical cannabis sectors.

**HEALTH CARE LAW**

Mr. Kelley’s practice and experience includes counseling and representing health care participants in the following:

- Board governance
- Fraud & abuse: state and federal anti-kickback statutes, Stark, conditions of participation, civil monetary penalties, corporate practice of medicine, fee-splitting
- Compliance, and the development and operation of Compliance Programs
- State and federal licensure, credentialing and accreditation
- Private and public insurance reimbursement
- Facility licensure, credentialing and accreditation
- Program enrollment, exclusions and terminations
- Individual practitioners in matters involving state boards, peer review, network terminations
- Nonprofit and tax-exempt status matters
- Transactional matters including contracts and mergers and acquisitions
- HIPAA and health information privacy
- Meaningful use, electronic health records and other health technology
- Medical staff matters
- National Practitioner Data Bank reporting
- Medical cannabis participation and compliance
- Medical device approval and compliance
- Planning for and onboarding new programs, technologies and models of care
- Telehealth

Mr. Kelley has a particular focus on the emerging **behavioral health, substance use disorder (SUD), intellectual and developmental disability, home health, post-acute and long term care sectors**. He has been elected to the leadership of the American Health Lawyers Association, Behavioral Health Task Force.

Mr. Kelley received his B.A. from Tulane University and his JD from Villanova University School of Law. He is a member of the American Health Lawyers Association, Association of Corporate Counsel. He writes and lectures on Privacy Information Governance and regulatory compliance in Behavioral Health and Long Term Care industries.

**PRIVACY AND DATA PROTECTION**

Mr. Kelley consults businesses of all sizes in all sectors on privacy and information governance including: regulatory compliance, breach planning, breach response and reconciliation, government and internal investigations, land insurance selection and recovery. Through a tested risk analysis and management process, Mr. Kelley has assisted clients to develop compliance plans that incorporate applicable industry regulations and standards and are scaled to the size and unique needs of their businesses. Among his clients are several cybersecurity and privacy firms both as part of their internal service offerings and their own legal compliance. He has substantial experience litigating privacy matters, from responding to subpoenas to confronting state and federal investigations.

**AN EXPERIENCED HEALTH CARE GENERAL COUNSEL AND PRIVACY OFFICER**

Prior to joining Offit Kurman, Mr. Kelley practiced law with the Kelley Partners in Philadelphia, PA and also served as General Counsel and Privacy Officer at NHS Human Services, a complex behavioral health provider, with over 12,000 employees in 7 states. As General Counsel he managed and handled all legal services for the organization including:

- Telehealth
- Closely oversaw all litigation, including malpractice, employment, contractual, premises
- Advised on all health law matters including fraud & abuse, regulatory, nonprofit/tax-exempt status, licensure, meaningful use, corporate practice, program COPs
- Worked closely with and Office of Corporate Accountability on compliance matters and developed compliance strategies unique to the behavioral health and substance abuse treatment setting
- Handled transactional matters including payer and vendor contracts, real estate and financing
- Conducted internal investigations and handled government and payer investigations and reviews
- Advised on employment matters including: discrimination, wage payment, FLSA, FMLA, accommodations, OSHA, benefits
- Advised on information governance
- Corporate structure and corporate governance matters
- Assisted NHS as a thought leader in industry, advocating for funding, quality, access and innovation in behavioral health, substance abuse, autism services, specialty education, intellectual disabilities
- Advanced concept of behavioral health care integration and health homes

As Privacy Officer of NHS he oversaw all aspects of HIPAA compliance and other privacy issues facing organization including:

- Established and chaired HIPAA Risk Analysis and Management Committee
- Created and implemented the NHS Privacy Hotline
- Developed privacy and security policies and procedures
- Conducted investigations and risk assessments, reporting and notification regarding privacy events
- Advised on interplay between federal and state privacy laws affecting mental health and substance abuse
- Established Business Associate monitoring program and of business associates and BA agreements
- Assisted and advised with establishment of Electronic Health Record

#### **MEDICAL CANNABIS**

Mr. Kelley combines his health care knowledge, the breadth of his in-house experience on legal and business matters, and his understanding of the complex body of cannabis law, to act as trusted advisors to entrepreneurs entering or participating in the medical cannabis sector.

#### **POINTS OF DISTINCTION**

Mr. Kelley has successfully:

- Represented providers in multiple health care fraud investigations including civil and criminal Department of Justice investigations
- Negotiated a favorable settlement with the DOJ and oversaw compliance with Corporate Integrity Agreements
- Reversed a provider's termination from Medicare, state Medicaid programs and private insurance networks
- Defended individual practitioners on multiple occasions before the state boards and the Medicare Quality Improvement Organization, avoiding sanction and NPDB reports
- Challenged the regulatory authority of the Department of Human Services before the Pennsylvania Supreme Court, to ensure proper funding of children and youth services
- Promptly and smoothly guided clients to respond to multiple data breaches while minimizing regulatory impact and costs
- Responded to investigations of the Health and Human Services, Office of Civil Rights

#### **IN THE NEWS**

- *Controversy Around Pennsylvania's Medical Marijuana Permits*, 6 ABC Action News, WPVI-TV, Philadelphia, PA, (June 30, 2017).