POLSINELLI

Stephen D. Bittinger

SHAREHOLDER

Charleston, SC | 854.223.6210
Washington, D.C. | 202.777.8914
sbittinger@polsinelli.com

Stephen Bittinger is one of the leading practitioners in the country on the law surrounding the use of statistical sampling and extrapolation and the use of artificial intelligence (AI) software tools as evidence in health care reimbursement disputes. He focuses his practice on federal Administrative Procedure Act (APA) litigation but often serves as subject matter counsel, or an expert witness, on statistical sampling and AI-as-evidence disputes in False Claims Act (FCA) proceedings, health care criminal proceedings, commercial litigation with payors, and government payors fraud, waste, and abuse audits and investigations.

Stephen has represented providers, suppliers, laboratories, pharmacies, revenue cycle management companies, drug and device manufacturers and all manner of investment companies on the care delivery side within the U.S. health care system and internationally. Due to the focus of Stephen's practice, he has worked closely with numerous federal agencies throughout his career, including the Centers for Medicare and Medicaid Services (CMS) Center for Program Integrity (CPI), the Department of Health and Human Services Office of Inspector General (HHS-OIG), the Department of Veteran Affairs (VA), the Health Care Fraud division of the Department of Justice (DOJ) and state Attorney General (AG) offices and Medicaid Fraud Units (MFU) across the country.

Education

- University of Akron School of Law (J.D., 2010)
- John Carroll University (M.A., 2005)
- Kent State University (B.S., 2001)

Bar Admissions

- South Carolina
- North Carolina
- Ohio
- District of Columbia

Court Admissions

- U.S. Court of Appeals, Fourth Circuit

Capabilities

- Health Care
- Health Care Litigation
- Reimbursement Audits & Disputes
- Health Care Reimbursement
- False Claims Act Defense

- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. Court of Federal Claims
- U.S. District Court, District of Columbia
- U.S. District Court, District of South Carolina
- U.S. District Court, Northern District of Ohio
- U.S. District Court, Southern District of Ohio

Recognition

- Ranked in *Chambers USA: America's Leading Lawyers for Business*, Healthcare, South Carolina, 2025
- Selected for inclusion in *Best Lawyers in America®* for Health Care Law, 2024-2026
- Southeastern Legal Awards, Legal Innovator Finalist, 2024
- Named "Presenter of the Year" by 1st Healthcare Compliance
- Charleston Business Magazine's Legal Elite, Health Care, 2022-2023

Matters

Government Payor Defense

- Filed the first federal suit in the country challenging an MCO's use of generative artificial intelligence (gAI) for a postpayment review to determine denials and an extrapolated overpayment as violation of the Federal Medicaid Act.
- Invalidated two extrapolated overpayments in federal litigation against CMS for audit contractors violating a supplier's due process rights by failing to produce documentation to support extrapolated overpayments.
- Successfully obtained civil sanctions against CMS in federal litigation for failure to preserve and procedure documentation necessary to support an extrapolated overpayment.
- Successfully overturned a CMS payment suspension against a provider with annual Medicare payments in excess of $100 million and prevented the termination of 3,000 employees and loss of services to 25,000 beneficiaries without federal litigation while the provider was under DOJ investigation.
- Overturned all denials used by HHS-OIG to support a $29 million dollar overpayment and 98% error rate against a durable medical equipment supplier in the Medicare appeals process.
- Reduced a DOJ health care fraud loss value of $80 million in a criminal proceeding to $3.3 million at a fatico hearing.
- Represented a national group of oncology specialty practices before the Department of Veteran Affairs and reduced alleged overpayments by approximately $50 million.
- Defended a CMS Medicare and Medicaid fraud, waste and abuse audit by a Unified Program Integrity Contractor (UPIC) by reducing exposure from $6 million to $155,000.
- Defended a Medicaid fraud, waste and abuse audit and reduced exposure from $1.6 million to $300,000.
- Defended a hospice owned by a health system from a UPIC audit and CMS payment suspension by reducing error rate from 88% to 3%, terminating suspension and having held funds in the amount of $5.5M released.

False Claims Act and Health Care Fraud

- Successfully defended a False Claims Act investigation against a revenue cycle management company that had billed for the targets of the Department of Justice litigation with a global loss value in excess of $180 million.
- Defended free-standing hyperbaric facility from False Claims Act investigation and reduced exposure from $25 million to $450,000 in settlement.
- Testified as an expert witness in federal health care fraud case and reduced defendant's financial loss value from $18 million to $3.1 million.

International Reimbursement Dispute and Guidance

- Represented an international medical device manufacturer regarding obtaining a billing code and CMS reimbursement guidance.
- Represented foreign hospitals and air ambulances in administrative appeals and pre-litigation resolutions for settlement of health insurance claims by foreign hospitals and air ambulance companies.
- Represented U.S. hospitals and providers in administrative appeals and pre-litigation resolutions for settlement of health insurance claims against foreign insurance carriers and government health plans.

Expert Witness

- Served as an expert witness in a bankruptcy proceeding regarding the compliance of a rural hospital serving as a reference laboratory under CMS regulations and guidance.
- Served as an expert witness for a defendant in a federal criminal health care fraud case regarding Medicaid regulations, reimbursement methodology, and industry standards regarding payment of amounts based on fee schedules versus billed rates.
- Served as an expert witness for physician in arbitration regarding CMS regulations on the necessary elements of physician supervision of an advanced nurse practitioner providing radiation therapy.

Publications

January 12, 2026
Outlook 2026: Prior Authorization, AI Take Center Stage; CMS Kills Skin Substitute LCD
Report on Medicare Compliance Vol 35 No 1

July 28, 2025
Trump AI Action Plan addresses slow-to-adopt sectors like healthcare
Quoted, Healthcare IT News

April 7, 2025
Medicare Appeals Backlog Is Anticipated With New HHS Enforcement Position, Job Cuts
Quoted, COSMOS

February 18, 2025

Attys Talk AI Risks, Compliance At Health Law Conference
Quoted, Law360

February 2025
2025 Health Care Reimbursement Newsletter

April 11, 2024
Due Process: A Winning Weapon Against Extrapolated Overpayments
Co-Author, American Health Law Association

November 16, 2023
DOJ Indicts Former Executive at Medicare Advantage Organization, Signaling Continued Commitment to Individual Accountability in Corporate Criminal Investigations
Co-Author, American Health Law Association

August 11, 2023
Righting an Institutional Wrong: Redefining an Overpayment Through HHS-OIG's Policy Shift on Zero-Paid Claims
Co-Author, American Health Law Association

May 18, 2023
False Claims Act Enforcement Involving Medicare Advantage Plans: Recent Cases and Current Trends
Co-Author, American Health Law Association

December 28, 2022
Statistical Sampling and Extrapolation
Co-Author, American Bar Association

October 31, 2022
The Hunt is On: OIG Targets Telehealth Fraud During the COVID-19 Pandemic
Co-Author, American Bar Association

October 1, 2022
Medicare Reimbursement Audit Checklist
Co-Author, LexisNexis Practical Guidance

September 5, 2022
Weekly News and Compliance Strategies on Federal Regulations, Enforcement Actions and Audits
Quoted, Report on Medicare Compliance, Vol. 31 No. 32