



ATTORNEYS AT LAW

Five Questions Discussing the Present and Future of the Healthcare Staffing Industry with Tony D'Amicantonio, Vice President from Odell Studner

December 17, 2020: Michael Bartels, Chief Development Officer of Becker LLC, interviewed fellow Industry Partner Tony D'Amicantonio, Vice President & Staffing Practice Leader of Odell Studner, discussing the hot topics Tony has consulted with his Staffing Clients about during the Pandemic and looking forward to 2021.

Bartels: With COVID-19 having a drastic impact on the Staffing Industry as a whole, how are you advising your Healthcare Staffing clients to deal with the Pandemic? Where have you seen a growth or decline, specifically with your Healthcare Staffing clients, and what has been their feedback about how they are handling the Pandemic?

D'Amicantonio: From an insurance and risk management standpoint, we continue to encourage our clients to understand their Workers' Compensation statutory requirements as it relates to "essential workers" who contract the virus. Obviously, many healthcare staffing companies are placing folks who are on the front lines helping save lives and as such could be more susceptible to contracting the virus. For that reason, many states have enacted a presumability component to their Workers' Compensation statute which presumes these employees contracted the virus while at work, and thus making it a compensable Workers' Compensation claim for the employer unless the employer can clearly support otherwise. Understanding the playing field here is key to helping a sick employee and ensuring good communication with that employee and with your client if somebody does get sick.

Much like the staffing industry as a whole, the healthcare staffing industry has experienced varying degrees of growth or decline depending on what type of medical staffing you are providing. For example, travel nursing has seen some of the largest growth, while allied healthcare has seen some of the sharpest declines. My discussions with my clients vary in how they are handling this. Some folks are choosing to stay the course as we recently just started to see a modest return in the allied healthcare sector prior to this most recent COVID spike. Some believe that return will continue and they will be just fine. Others have pivoted their business model to offer another specialty segment like travel nursing or per diems in order to further diversify and capitalize in those stronger segments right now in order to offset losses elsewhere.

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Bartels: *What do you see as your outlook for the Healthcare Staffing Industry going forward in 2021 and beyond?*

D’Amicantonio: No matter what your business is, I believe one of the biggest lessons learned from this pandemic is the value of diversification. For that reason I believe you will continue to see many more full-blown “Medical Staffing” firms evolve that have multiple segments of the healthcare industry that they service as opposed to just being an allied healthcare provider specializing in just one sector.

In addition to that, I see a fatigued workforce that will continue to present opportunity for medical staffing companies for years to come. Very few front line workers have been able to have a balanced lifestyle over the last nine months, and I believe that will lead to a revolving workforce in the near future where our industry will be there to help and capitalize all at the same time.

Bartels: *What, if any, impact has the election had on the healthcare staffing industry?*

D’Amicantonio: Right now I think uncertainty best sums it up. Obviously, the vaccines are front and center of many federal and state political landscapes right now so we will see what kind of opportunity that might create for our industry but clearly this has taken precedent.

Outside of the vaccine, I believe California’s AB5 law that goes into effect on January 1, 2021 will have the most significant impact on the healthcare staffing industry. By shifting the onus to the employer to evidence the independent contractor status through the ABC test, the state has left staffing companies that use independent contractor types of placements in an onerous position that could upset entire business models. Specifically many healthcare staffing companies that utilize independent contractors for advanced practitioners like PAs, NPs and CRNAs are contemplating converting that entire workforce to W-2s in fear that California is just the first of multiple states that will do this. Thankfully, Locum Tenens Physicians appear to be outside the scope of this law but this will certainly prove to be a disrupter in the industry as companies evaluate and implement their different strategies.

Bartels: *What impact did COVID have on the insurance marketplace for healthcare staffing companies and the various insurance lines that are necessary for them to carry?*

D’Amicantonio: COVID was the piece that pushed an already deteriorating insurance marketplace over the edge into the worst insurance marketplace we have seen since the mid-80s. After insurers were already dealing with things like increased massive jury verdicts, increased natural disasters, increased distracted driving accidents, decreased investment income as rates remain low and the me too movement, here comes COVID to push it over the edge. For the healthcare staffing marketplace specifically, this is leading to rate increases to the tune of 15% on average on the liability lines of insurance for good performing accounts. If you have losses attached to your account, we are seeing increased deductibles, increased premium or non-renewals of coverage. On top of that, carriers are not willing to take chances

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on new business in this hard marketplace so finding replacement coverage can prove to be extremely difficult.

Bartels: *Captives have always been a great tool for Owners to capture additional profits in the staffing Industry. My understanding is that they have been getting even more attention lately. Can you expand on why that is the case? In addition, what are some of the advantages as well as risks associated with a captive?*

D'Amicantonio: You are exactly right. The hard insurance marketplace is the reason why right now staffing companies are exploring captives for their worker's compensation exposure more diligently. Captives have always provided some huge advantages for staffing owners, but right now the ability to insulate themselves from this unpredictable and hard marketplace has a lot of owners investigating if this is the right option for them.

That predictability that the captive model provides is what people are trying to capitalize on right now. While the standard marketplace is experiencing turbulent coverage and pricing increases, owners in a captive pay premium directly related to their own experience instead of the marketplace's experience.

That being said, the biggest advantage that I always tell my clients about is that one of these owned group captives that is made up of other staffing companies is the only insurance program where they will never get non renewed because they are a staffing company. History evidences that we cannot say that about any other insurance company other than one owned by its staffing company members.

Additionally, you are still buying insurance for those big losses that are unpredictable, you just move to a model of buying less insurance because you are pre funding those smaller losses that your history says you are likely to have.

Many of our clients are taking this same mentality when it comes to utilizing a captive for their employee benefits program. Why subject yourself to the unfair fully funded marketplace in a game that you can never win in, when you can take control over your benefits program by utilizing a captive to reduce excess carrier profitability and get a true understanding of what kinds of losses your plan is having. With that kind of information you can actually create a plan that will be more beneficial for your employees, establish a healthier workforce, all while increasing your profitability compared to those in the fully funded marketplace.

In both types of captives, the biggest disadvantage is that you have a period of investing into that captive that will require additional cash flow to drive down net cost. The investing of extra cash is greatly minimized after the first couple of years but is still certainly a real aspect that is required to launch a captive program. On top of that, when people talk about risk, you can have situations where you pay more in a given year if you have terrible losses. Those numbers are capped, but in order for the reward to be there, there has to be an element of risk.

In summary, captives are just like any other program where they are not for everyone and are not a silver bullet. That being said, nothing else has been as tried and true as a superior long-term solution for most middle market staffing companies to be able to get an edge over their competition.

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About the Professionals:



About Tony D'Amicantonio: Tony is a Vice President and Staffing Practice Leader at Odell Studner and is responsible for strategic design and implementation of his staffing clients' insurance programs. He also oversees the operations of the Staffing Group at Odell Studner, ensuring the entire team has real-time knowledge of the evolving staffing industry. Tony works with over 150 Staffing clients nationwide whose premiums total over \$200 Million. He directs the design and implementation of loss sensitive insurance programs, helping his clients to achieve best practices in their operational risk management procedures.

Tony is an active board member of the Mid Atlantic Staffing Association and an associate member of the American Staffing Association, as well as other state chapters. He is an active supporter and participant in Staffing Industry Analysts and its Healthcare Summit and Executive Forum, TempNet Association, and the Affiliated Staffing Group.



About Michael A. Bartels: Michael is the firm's Chief Development Officer and brings over 20 years of experience in sales, networking and finance across a wide variety of industries. As part of the Staffing team, Mike oversees all business development and marketing activities, while working closely with team members, industry partners and staffing clients to ensure complete satisfaction is realized between the firm, our partners and clients.

Mike is an active member of numerous state and national staffing industry trade associations and is a Board Member of The New Jersey Staffing Alliance. He has presented and moderates panels along with writing articles for the various Staffing trade associations.

About Becker LLC: Becker LLC is a premiere mid-market firm recognized as a leader in the staffing industry. With offices in New York, California, Pennsylvania, and New Jersey, the firm provides forward thinking, mission-critical advice to staffing industry entrepreneurs and management on high stakes, complex legal matters as well as day-to-day matters and long-term plans. The firm are proud to be members of the following Staffing Associations: SIA, ASA, ASG, TempNet, CSP, MSA, NJSA, NYSA and serves as general counsel to the Mid Atlantic Staffing Association.