

## Health Care Enforcement Defense

Federal and state law enforcement agencies have made detecting and investigating health care fraud and abuse a top priority, and are aggressively pursuing individuals and companies suspected of such activities. In the past several years, the number of investigations and enforcement actions has surged, and changes in the law designed to prevent and detect such activities will continue to drive this trend.

The attorneys in our Health Care Enforcement Defense Practice have extensive experience defending alleged violations of laws that prohibit:

- Offering or receiving kickbacks and other financial inducements
- Filing false claims with state and federal health care programs
- Marketing drugs and devices in violation of the Federal Food, Drug, and Cosmetic Act
- Receiving overpayments from government health care programs
- Maintaining financial relationships that constitute unlawful conflicts of interest or give rise to prohibited self-referrals

We regularly help clients conduct internal investigations designed to detect and correct problems *before* the government becomes involved. This process typically involves reviewing documents, auditing, interviewing employees and other witnesses, analyzing whether a voluntary disclosure may be appropriate, and, when necessary, retaining experts and consultants. We also assist in the creation, development, and review of compliance and qui tam avoidance programs designed to reduce the risk of facing a government enforcement action.

In addition, we represent clients in federal and state government investigations and litigation across the country in matters initiated by the Criminal and Civil Divisions at the Department of Justice (DOJ), US attorneys, the Office of Inspector General (OIG) for the Department of Health and Human Services, the Drug Enforcement Administration, state attorneys general, the 50 Medicaid Fraud Control Units, and whistleblowers.



### Quick Facts

- Multidisciplinary team including health care, white collar, litigation, and employment law attorneys
- Lawyers with significant experience in government and internal investigations and a wide variety of regulatory compliance matters
- Leading white collar criminal defense team and unsurpassed health care industry and legal knowledge
- Attorneys who have served in government agencies, including the DOJ, OIG, and offices of the US attorneys and state attorneys general
- Team members recognized for excellence by *Chambers USA*, *Super Lawyers*, and *Nightingale's Healthcare News* (Outstanding Lawyers)

## Representative Matters

We have helped clients avoid potentially ruinous civil fines, incarceration, other criminal and administrative penalties, and exclusion by combining our regulatory knowledge with our investigative and litigation capabilities. For example, we have:

- Settled numerous False Claims Act cases involving pharmaceutical and medical device manufacturers and direct providers of care for a fraction of the amounts originally demanded by the government
- Persuaded US attorneys' offices to decline to intervene in multiple qui tam (whistleblower) cases
- Convinced US attorneys' offices and other prosecutors not to initiate False Claims Act cases and other actions against numerous types of health care providers
- Obtained dismissals of declined qui tam cases
- Received acquittals in recent federal criminal cases alleging violations of the Anti-Kickback Statute and federal health care program fraud
- Secured criminal declinations for various participants in the health care delivery system, including providers and manufacturers
- Obtained reversals at the appellate level of adverse rulings

## Clients We Serve

- Academic medical centers
- Ambulatory service providers
- Clinical laboratories
- Home health agencies
- Hospices and post-acute care
- Hospitals
- Individuals working in the health care industry
- Managed care organizations
- Manufacturers and distributors
- Medical device and diagnostics companies
- Pharmaceutical manufacturers
- Physicians and physician practices
- Retail, specialty, and institutional pharmacies

## Experience

- Appeals of Medicare and Medicaid overpayments
- Civil money penalties
- Criminal Health Care Fraud Statute
- Debarment/exclusion
- Defending declined qui tam cases
- Negotiating corporate integrity agreements
- Off-label marketing/misbranding
- Prescription drug reimbursement
- Quality of care or products
- Responses to requests from Medicare Administrative Contractors (MACs), Zone Program Integrity Contractors (ZPICs), Medicaid Integrity Contractors (MICs), and Recovery Audit Contractors (RACs)
- Stark Law/state self-referral bans
- State and federal anti-kickback statutes
- State and federal False Claims Act/qui tam actions
- State and federal inspections and surveys
- Voluntary disclosure
- White collar defense

## Connect

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