

HEALTH CARE FRAUD 2022

June 22-24, 2022 | Caesar's Palace, Las Vegas, NV

Draft Agenda

Day One – Wednesday – 22 June 2022

1:00 REGISTRATION OPENS

1:45 OPENING REMARKS

Gabriel L. Imperato, Institute Chair, Nelson Mullins, Fort Lauderdale, FL

2:00 GENERAL COUNSEL AND COMPLIANCE OFFICER FORUM

Moderator: Kirk Ogrosky, Goodwin Procter, LLP, Washington, DC

Panelists: Elsie Faciane, VP Corporate Compliance, HCA Healthcare, Nashville, TN
Karah Parschauer, EVP & Chief Legal Officer, Ultragenyx Pharmaceutical Inc., San Francisco, CA
Noelle Valentine, Chief Compliance Officer, Healogics, Inc., Jacksonville, FL

This session will examine issues and aspects of government investigations and best practices for in-house counsel, compliance professionals and outside counsel for responding to enforcement matters, and also ethical issues and principals of professional responsibility common to these matters.

3:30 BREAK

4:00 ENFORCEMENT LIABILITY & INSOLVENCY/BANKRUPTCY

Moderator: Laurence J. Freedman, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. Washington, DC

Panelists: Samuel Maizel, Dentons, Los Angeles, CA
Louis E. Robichaux IV, Ankura, Dallas, TX
Thomas F. Moran, Nelson Mullins, Myrtle Beach, SC

This session will address liability associated with criminal and civil enforcement actions and insolvency and ability to pay and potential resolution in bankruptcy court.

5:30 ADJOURN

Faculty Dinner Sponsored by PricewaterhouseCoopers and BRG



Day Two- Thursday – 23 April 2022

8:25 WELCOMING REMARKS

Gabriel L. Imperato, Institute Chair, Nelson Mullins, Fort Lauderdale, FL

8:30 GOVERNMENT ENFORCEMENT PANEL

Moderator: Gabriel Imperato, Nelson Mullins, Fort Lauderdale, FL

Panelists: Dara Corrigan, Deputy Administrator and Director, Center for Program Integrity, Centers for Medicare and Medicaid Services, Baltimore, MD.
Allan Medina, Criminal Fraud Section, Department of Justice, Washington, DC
Laura Ellis, Senior Attorney, Office of Counsel to the Inspector General, Health and Human Services, Washington, DC
Sarah Arni, Civil Fraud Section, Department of Justice, Washington, DC
Matthew Whitmire, Director of the Indiana MFCU and Past President, NAMFCU

A review of health care fraud enforcement activity by representatives of the Department of Justice, the Office of Counsel to Inspector General of Health and Human Services and Medicaid Fraud Control Units.

9:45 FALSE CLAIMS ACT DEVELOPMENTS

Moderator: Gejaa T. Gobena, Hogan Lovells, Washington, DC

Panelists: Ben Wei, Civil Fraud Section, Department of Justice, Washington, DC
Jonathan Tycko, Tycko & Zavareei, LLP. Washington, DC
Laura F. Laemmle-Weidenfeld, Jones Day, Washington, DC
Lareena J. Phillips, Special Deputy Attorney General of the North Carolina MFCU, Raleigh, NC

This panel will discuss important legal developments and current litigation and settlements in False Claims Act cases.

11:00 BREAK

11:15 MEDICARE AND MEDICAID MANAGED CARE FRAUD AND ENFORCEMENT

Moderator: Dan Meron, Latham & Watkins LLP, Washington, DC

Panelists: Fritz Scanlon, Asst. Chief, Health Care Fraud Unit, Criminal Fraud Section,
Department of Justice, Washington, DC
Carrie Bashaw, State of Washington Medicaid Fraud Control Unit, Olympia,
WA

This panel will discuss recent legal developments and current litigation and settlements involving managed care plans.

12:15 LUNCH – Keynote (NON-CLE)

Lisa Miller, Deputy Assistant Attorney General, Criminal Division, Fraud & Appellate Sections, Department of Justice, Washington, DC

1:30 CRIMINAL, CIVIL AND ADMINISTRATIVE ENFORCEMENT IN KICKBACK CASES

Moderator: Katherine Lauer, Latham & Watkins, LLP, San Diego, CA

Panelists: Allan Medina, Department of Justice, Washington, DC
Keisha B. Thomson, Office of Counsel to the Inspector General, Health and Human Services, Washington, DC
Arthur Di Dio, Civil Fraud Section, Department of Justice, Washington, DC
Ty Kelly, Baker Donelson, Baltimore, MD

This panel will review recent developments in the prosecution of violations of the Anti-Kickback statute in criminal, civil and administrative proceedings.

2:45 BREAK

3:00 HEALTH CARE FRAUD WORKSHOPS

Workshops have been planned to cover a variety of interesting and current topics. Facilitators experienced in the subject matter of each workshop will lead the discussions with the goal of eliciting the views and knowledge of the participants, many of whom have a vast amount of practical experience. The number and subject matter of the workshops may be determined by registration and thus are subject to change.

WORKSHOP 1: OVERPAYMENT LIABILITY AND SELF-DISCLOSURE

Tony Maida, McDermott Will & Emery, New York, NY

Tamar Terzian, Office of Counsel to the Inspector General, Health and Human Services, Washington, DC

This workshop will review the most up to date information regarding reporting Stark, Kick-Back and Overpayment matters to the government - should you disclose and if so to what government entity.

WORKSHOP 2: BEHAVIORAL HEALTH ENFORCEMENT

Andrew Schulke, Nevada Medicaid Fraud Control Unit, Henderson, NV
Crane M. Pomerantz, Sklar Williams, PLLC, Las Vegas, NV

This workshop will discuss the unique health care fraud issues associated with behavioral health services.

WORKSHOP 3: PRIVATE EQUITY INVESTMENT RISKS IN HEALTHCARE

Annie Railton, Goodwin Procter LLP, New York, NY
Jacklyn DeMar, Taxpayers Against Fraud, Washington, DC
Miranda Hooker, Troutman Pepper, Boston, MA

This workshop will address emerging liability for private equity investors in the health care industry.

4:15 BREAK

4:30 HEALTH CARE FRAUD WORKSHOPS (cont'd)

WORKSHOP 4: ENFORCEMENT AND COMPLIANCE AND TELEHEALTH

Murad Hussain, Arnold & Porter, Washington, DC
Dustin Davis, Chief, Health Care Fraud Unit, Criminal Fraud Section,
Department of Justice, Washington, DC

This workshop will discuss enforcement and compliance issues surfacing in the expanding telehealth business.

WORKSHOP 5: PRE-TRIAL PLEADINGS AND DISCOVERY IN FALSE CLAIMS ACT CASES

Bradley A. Klein, Skadden Arps Slate Meagher & Flom, Washington, DC
Andrew Stone, Stone Law Firm, Pittsburgh, PA
Katrina King, Medicaid Fraud Control Unit, Olympia, WA
Diana Cieslak, Civil Fraud Section, Department of Justice, Washington, DC

This workshop will examine the different common pleadings and discovery issues typical in False Claims Act litigation including but not limited to Motions to Dismiss under Rule 9(b) and Motions for Summary Judgment and the types of issues that are addressed in these pleadings, including the “Materiality” of compliance deficiencies as a basis for False Claims Act liability.

WORKSHOP 6: FRAUD AND ABUSE IN SKILLED NURSING HOMES

Benjamin McKenna, Pennsylvania Medicaid Fraud Control Unit,
Harrisburg, PA

Adam P. Schwartz, Carlton Fields, Tampa, FL

The panelists will discuss topics in nursing home fraud and patient abuse and False Claims Act cases involving allegations of substandard care.

5:30 ADJOURN

6:00 WELCOME RECEPTION

Day Three – Friday – 24 April 2022

8:30 TRIAL PRACTICE DEMONSTRATION – *WellCare* Case

Moderator: Joe Whitley, Womble Bond Dickinson, Atlanta, GA

Panelists: Jay G. Trezevant, United States Attorney’s Office, Tampa, FL
Charles Hardin, United States Attorney’s Office, Tampa, FL
Kyle Ford, White Hat Investigations & Consulting, Clearwater, FL
John Lauro, Lauro Law Firm, New York, NY
Paul M. Sisco, The Law Office of Paul M. Sisco, Tampa, FL

The WellCare case was one of the most important health care fraud managed care cases involving both organizational and individually liability. The case was prosecuted by the United States Attorney’s Office in the Middle District of Florida, which has been a pioneer in bringing numerous criminal and civil cases involving organizational and individual liability. The panel will include the lead prosecuting attorney and investigative agent and the defense attorneys who represented key WellCare executives.

10:00 BREAK

10:15 HEALTH CARE FRAUD WORKSHOPS (cont'd)

WORKSHOP 7: NEGOTIATING AND MEDIATING FALSE CLAIMS ACT CASES

Moderator: Hon. Janice Symchych (Ret.), Judicial Arbitration and Mediation Services (“JAMS”), Minneapolis, MN

Panelists: Gabriel L. Imperato, Nelson Mullins, Fort Lauderdale, FL
George Coddling, Medicaid Fraud Control Unit, Denver CO
Yolonda Campbell, Civil Fraud Section, Department of Justice, Washington, DC

This session will focus on negotiation and mediation for resolving healthcare False Claims Act cases. The panel will discuss how to prepare for negotiation and mediation, considering the distinct needs of clients, counsel, and the mediator. The involvement of relator and relator’s counsel in settlement discussions at various stages will also be addressed. Finally, the panel will explore some of the issues and challenges in mediation, with a particular focus on key settlement considerations.

WORKSHOP 8: ENFORCEMENT AND COMPLIANCE AND CLINICAL LABORATORIES

Ryan Stumphauzer, Stumphauzer Foslid Sloman Ross & Kolaya, PLL, Miami, FL
Steve Ortquist, Arete Compliance Solutions, Phoenix, AZ

This workshop will address enforcement and compliance issues associated with clinical laboratory services.

WORKSHOP 9: FALSE CLAIMS, MEDICAL NECESSITY AND QUALITY OF CARE AND RECENT CASE DEVELOPMENTS

David Ellenbogen, Medica, Minnetonka, MN
Joel Androphy, Berg & Androphy, Houston, Tx
Jack Selden, Bradley Arant Boult Cummings LLP, Birmingham, AL

This workshop will discuss recent developments involving allegations of lack of medical necessity and substandard care.

11:15 BREAK

11:30 HEALTH CARE FRAUD WORKSHOPS (cont'd)

WORKSHOP 10: CORPORATE INTEGRITY AGREEMENT'S INDEPENDENT REVIEW ORGANIZATIONS AND THE OFFICE OF THE INSPECTOR GENERAL

Gary Keilty, Tampa, FL

Andi Bosshart, King & Spalding, Atlanta, GA

Laura Ellis, Office of Counsel to the Inspector General, Health and Human Services, Washington, DC

The workshop presenters will discuss common issues faced by entities implementing CIAs, including new changes to the CIAs, the role of the Compliance Officer, IROs, and what entities not under CIAs might want to adopt or address in their own programs.

WORKSHOP 11: FEDERAL ADMINISTRATIVE ENFORCEMENT: EXCLUSIONS AND CIVIL MONEY PENALTIES

John Kelly, Bass, Berry & Sims PLC, Washington, DC

Kirk Sripinyo, OIG HHS, Washington, DC

This session will cover Office of Inspector General administrative authorities, including affirmative exclusions and Civil Money Penalties and enforcement trends and recent settlements.

WORKSHOP 12: ENFORCEMENT AND DATA ANALYTICS

Carrie A Vos, Pricewaterhouse Coopers Advisory Services LLC, Chicago, IL

Mandy Asgeirsson, BRG, Washington, DC

This workshop addresses increased use of structured and unstructured data to support investigations, litigation, and other enforcement actions. This session will also address the effective use of analytics for data discovery and assessment of matters for prosecution and defense.

12:30 BOXED LUNCHES

12:45 SPECIALTY WORKSHOPS

These workshops are designed to be confidential sessions where defense, government and relator's counsel can discuss matters unique to their roles in criminal and civil health care fraud cases.

SPECIALTY WORKSHOP FOR DEFENSE AND IN-HOUSE COUNSEL

Patric Hooper, Hooper, Lundy & Bookman, PC, Los Angeles, CA
Bridgit A. Gordon, Hooper, Lundy & Bookman, PC, Los Angeles, CA

This workshop will focus on the case of U.S. v. Reliance and the investigation and trial issues which were important to the resolution of the case.

SPECIALTY WORKSHOP FOR GOVERNMENT COUNSEL

Allan Medina, Department of Justice, Washington, DC
Andrew Schulke, Nevada Medicaid Fraud Control Unit, Henderson, NV

This confidential workshop will involve topics of discussion by government counsel of strategy and tactics involved in criminal and civil health care fraud cases.

SPECIALTY WORKSHOP FOR QUI TAM/RELATORS AND OTHER PLAINTIFFS COUNSEL

Jacklyn Demars, Tax Payors Against Fraud, Washington, DC
Andy Stone, Stone Law Firm, Pittsburgh, PA

This confidential workshop will include Relators and other Plaintiffs' Counsel and the discussion of theories of whistleblower False Claims Act liability and strategy and tactics and responses to different defenses in False Claims Act cases.

1:45 BREAK

2:00 FEDERAL AND STATE ENFORCEMENT AND THE OPIOID CRISIS

Moderator: Michael E. Clark, Baker Donelson, Houston, TX
Panelists: David G. Lazarus, Verrill Dana, Boston, MA
Ashlee McFarlane, Gerger Hennessy McFarlane, Houston, TX
Kilby Macfadden, Department of Justice, Chicago, IL

This presentation will examine the Federal and State investigative and enforcement efforts for combating the nationwide opioid crises. The participants will discuss the criminal and civil enforcement strategies and goals and the forecast for future enforcement activity.

3:15 ADJOURN