

Healthcare Government Investigations & Litigation

Defending clients in administrative & courtroom litigation



When you need help

- developing a defense strategy and internal investigation process
- investigating allegations regarding fraud and abuse, kick-backs, antitrust, Stark, HIPAA, CLIA, FDA, OIG audits
- defending against claims at the administrative, quasi-judicial, or federal or state court level

our healthcare litigation team is here for you. We combine an understanding of your industry and objectives, experience litigating and resolving a broad range of healthcare matters, and a command of case management, trial skills, technology, and creativity to help you develop practical, business-oriented litigation strategies.

We represent and defend healthcare clients against a wide spectrum of healthcare litigation matters, including

- Fraud and Abuse Matters
- State and Federal Government Investigations
- Billing Company Disputes
- Exclusion from Medicare, Medicaid and other Federally-Funded Programs
- Medicare, Medicaid, Blue Cross/Blue Shield, and Third Party Payor Audit Appeals/Overpayment Demands
- Third Party Payor Departicipations
- Violations of Covenants Not To Compete
- Physician-to-Physician Disputes
- Physician Recruitment Matters
- Physician Residency Terminations
- Other Physician-Hospital Disputes
- Hospital Staff privileging Matters

Related Practice Areas

Cybersecurity & Data Breach Response

Cybersecurity & Data Privacy

E-Discovery - Encompass

E-Discovery & Information Governance

FDA Counseling & Compliance

General Counsel Services

Health IT

Healthcare

Healthcare Compliance & Operations

Healthcare Providers & Suppliers

Healthcare Transactions Litigation

Privacy & Data Management

Products Liability - Pharmaceuticals & Medical Devices

Qui Tam Litigation

White Collar Defense & Government Investigations

Related Industries

Health Insurance

Healthcare

Pharmaceuticals & Medical Devices

- Certificate of Need
 - Licensing Matters
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Defending and resolving healthcare litigation and investigations is what we do- our team is able to hit the ground running

- Firm attorneys have represented clients in courtrooms across the United States
 - Healthcare litigators include former Department of Justice, Attorney General and federal litigators with extensive experience before DOJ, CMS, FDA and state healthcare regulatory agencies
 - National trial counsel for hospitals in False Claims Act cases
 - National counsel for a number of clients providing services across the healthcare spectrum, including: durable medical equipment providers, laboratories, physician practices
 - Deep understanding of regulations and billing issues brings efficiencies (time and cost)
 - Nelson Mullins' dedicated e-discovery practice, Encompass, brings understanding of healthcare data and technology systems and approach embraced by Fortune 200 clients
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Clients our attorneys have served span the healthcare spectrum

- Hospitals and hospital systems
 - Pharmaceutical companies
 - Durable medical equipment providers
 - Laboratories
 - Physician groups
 - Nurses
 - Surgery Centers
 - Skilled Nursing Facilities (SNF)
 - Academic Medical Centers
 - Accountable Care organizations
 - Healthcare Insurance Companies
 - Healthcare Consulting Groups
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Helping clients avoid litigation and defending cases in courts when necessary

We have experience resolving matters out of court. We also have deep experience in the courtroom

- Administrative law hearings (e.g., state certificate of need licensing actions)

- Alternative dispute resolution (ADR) (e.g., mediation and non-binding arbitration)
- Judicial proceedings (e.g., state and federal court litigation)
- Quasi-judicial proceedings (e.g., hospital fair hearings, third party payor appellate hearings, and binding arbitrations)

Our attorneys assist you in making careful, timely, and informed decisions

- **Crisis management** – when they occur and with a view towards issues to consider regarding potential related litigation
- **Internal investigation processes and procedures** – to identify and memorialize documents and testimony of employees, witnesses and management
- **Expert witnesses and opinions** – guiding on identifying and hiring experts who give valuable advice and can serve as litigation witnesses
- **Government agency interactions** – facilitate meetings and strategies with state and federal government agencies regarding certificates of need and facility licensure matters
- **Internal and external communications plans** – including with your board of directors and law enforcement
- **Joint defense strategies** – providing strategic guidance to clients and co-counsel in joint defense
- **Litigation defense** – through discovery, settlement negotiations, alternative dispute resolution, and – when necessary – trial and appeal
- **Opposing expert strategies** – including investigating and examining opposing experts
- **Prepare defense strategy** – with regard to internal investigations
- **Preventive measures** – to help prevent litigation before it arises
- **Public relations strategy** – including timing, media approach, and content
- **Response to search warrant, subpoena or civil investigative demands** – by DOJ or state regulatory authorities
- **Time-sensitive investigations** – including for internal investigations and matters involving criminal allegations
- **Witness depositions** – preparing witnesses for and defending depositions of corporate, executive and managerial witnesses and conducting depositions of adverse and non-party witnesses

Why Nelson Mullins?

- Experience in global medical equipment, laboratories, radiology, cardiology, oncology, surgery, home health care, ENTs, nursing

- Tried dozens of cases in federal and state court to successful resolutions – full trial experience
- Negotiated favorable resolutions to numerous DOJ and state AG investigations
- Resolve OIG and DHHS, investigations and audits through favorable resolutions
- Resolve FDA investigations and audits to substantial compliance
- Practical perspectives from government and in-house experience

Experience

Following is a selected sampling of matters and is provided for informational purposes only. Past success does not indicate the likelihood of success in any future matter.

Healthcare Litigation

- Acted as lead trial counsel in one of the largest Medicare and Medicaid healthcare carrier case verdicts in the U.S.
- Recovered damages of \$144 million for the Federal Insurance Fund.
- Defended a major healthcare system in a substantial case involving allegations of billing fraud. Case involved numerous *qui tam* matters filed in various district courts and involved the review of millions of documents, hundreds of depositions, numerous court hearings, pretrial motions, etc.
- Defended Department of Justice investigations for billing irregularity issues with regard to durable medical equipment groups, medical device manufacturers, and pharmaceutical companies. Prevailed in favorable settlements in numerous matters.
- Defended hospitals and healthcare providers in government investigations.
- Assisted in the investigation and plea negotiation in one of the largest medical device fraud cases in the state of Virginia.
- Criminal and civil matter involving the interpretation of California law with regard to physical therapy, Med-X treatment, and therapy.
- Represented client in civil litigation matter involving the defense of the treatment of Lyme disease by IV infusion for longer terms and dealing with the challenges to this treatment.
- Attorney experience as lead trial counsel in some of the largest hospital fraud and abuse cases in the country.
- Experience defending clients as lead trial counsel in matters involving: durable medical equipment, laboratories, hospitals involved in antitrust litigation, physician practices facing exclusion under Medicare/Medicaid programs, radiology and oncology practices facing sanctions by OIG for supervision violations.
- Negotiated settlement on behalf of hospital CEO against former employer alleging non-compete violations.
- Won summary judgment on unfair trade practices claims against medical equipment manufacturer and vendor.
- Obtained sanctions and default judgment on behalf of ambulance service provider against shareholder, affirmed on appeal.
- Won summary judgment in *qui tam* suit brought by consultant alleging contractor client had overbilled the U.S. Department of Defense.
- Negotiated settlements for a variety of healthcare clients, including hospitals, healthcare systems, academic medical centers, and ambulance service providers in *qui tam* suits.

Medicare and Medicaid Audits and Appeals

- Obtained judgment from State Administrative Law Court on behalf of over 60 nursing homes challenging fines imposed by the State for allegedly exceeding the allowable number of Medicaid patient days.
- Represented academic medical center's faculty practice plan in voluntary disclosure of Medicare overpayment and related internal investigation.
- Obtained favorable ruling from Federal Administrative Law Judge for nursing home client appealing ZPIC overpayment extrapolation, involving issues of medical necessity.
- Managed academic medical center's response to ZPIC's educational outreach request.
- Coordinated hospice client's response to ZPIC request for medical records.
- Designed internal Medicaid RAC appeal procedures and templates for hospital system.
- Managed hundreds of Medicare and Medicaid RAC audits on behalf of several hospital clients.
- Represented hospice in responding to Medicaid Integrity Contractor (MIC) audit.
- Negotiated settlements for several nursing homes following appeals of Medicaid cost report audits.
- Designed exclusion screening processes for hospital and vendor clients and managed client response after excluded individuals were identified.

Certificate of Need

- Awarded judgment by South Carolina Supreme Court in suit brought on behalf of South Carolina Health Care Association against state agency for unlawfully suspending CON program
- Represented coalition of home health agencies in related efforts to revise State Health Plan CON standards and appeal multiple agency decisions to deny licensing renewal applications
- Negotiated successful bid on behalf of client to purchase existing home health agencies from State
- Numerous agency approvals and court orders awarding CONs to clients in contested cases, including CONs for a new acute care hospital, a radiation therapy center, an elective PCI program, and an open heart surgery program