



DOJ conference remarks provide insight into government priorities related to health care

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National conferences tend to bring out a number of government employees willing to give a peek behind the curtain and insight into how the government thinks and what is on the horizon in terms of government priorities. The American Bar Association's 12th National Institute on the Civil False Claims Act and Qui Tam Enforcement (ABA Conference) was no exception, with Acting Associate Attorney General Jesse Panuccio delivering several remarks regarding Department of Justice (DOJ) enforcement priorities that specifically affect the health care industry.

With respect to the opioid crisis, AAG Panuccio made clear that DOJ will "actively employ the False Claims Act [FCA], as well as any other available civil or criminal statute, against any entities involved in the opioid distribution chain who engage in the abuse and illegal diversion of opioids – from pharmaceutical manufacturers and distributors, to pharmacies, to pain management clinics and physicians."

AAG Panuccio also emphasized that DOJ has made protecting senior citizens from fraud and abuse a priority. He also noted that DOJ has pursued a number of recent cases exemplifying that priority, including FCA cases involving grossly substandard nursing home care, hospices that enroll patients who aren't terminally ill, thereby inducing patients to prematurely give up their rights to curative treatment, and skilled rehabilitation facilities that subject elderly patients to physical therapy that is not medically warranted just to increase Medicare reimbursement.

In addition, in his remarks, AAG Panuccio reiterated DOJ's renewed commitment to seeking dismissal, where appropriate, of

declined qui tam lawsuits, which was [first reported](#) at the 2017 Health Care Compliance Association's Health Care Enforcement Compliance Institute. He also restated DOJ's recently announced position that agency guidance "should not be used to evade lawful legislative and regulatory processes, which are designed to ensure accountable and limited governance."

Finally, AAG Panuccio noted that DOJ will continue to give a "material discount" on FCA damages and penalties when a defendant cooperates. However, the "extent of the discount will depend on the nature of the cooperation and how helpful it is to the [DOJ's] investigation, including our pursuit of individual wrongdoers." AAG Panuccio added that voluntary disclosures are "the most valuable form of cooperation."

Click [here](#) to read the full remarks of AAG Panuccio at the ABA Conference. Bricker & Eckler will continue to report on these types of updates and insights from other national conferences.

