

## DOJ's Focus on Healthcare Fraud: Where Does Corporate Fit?



Since Jeff Sessions was appointed Attorney General by President Trump,

many have wondered in what direction he would steer the Department of Justice (DOJ), and whether his priority-list would resemble his predecessor's. In the healthcare sector, where fraud is an ongoing concern, questions were aplenty about the new AG's commitment to prosecuting fraudulent activity. On the one hand, Sessions answered those questions; and on the other, perhaps he hasn't...at least not entirely.

In May, Acting Assistant Attorney General Kenneth A. Blanco of the Criminal Division spoke at the American Bar Association's 27th Annual Institute on Health Care Fraud. His message was unambiguous: despite rumors about competing priorities (like violent crime and illegal immigration) hijacking the fraud goals of the DOJ, Sessions intended to crack down on healthcare fraud with persistence and seriousness.

**“...vigorous in its pursuit of those who violate the law...”**

In [Blanco's own words](#): “{L}et me be clear: health care fraud is a priority for the Department of Justice. Attorney General Sessions feels very strongly about this. I can tell you that he has expressed this to me personally. The investigation and prosecution of health care fraud will continue; the department will be vigorous in its pursuit of those who violate the law in this area.”

But in an “watch what I do, not what I say” move, Sessions has recently cut vital positions in the Health Care Corporate Fraud Strike Force, a decision that might leave some to wonder how sincere Sessions's message by proxy truly was.

Understandably, Blanco's talk focused heavily on the Medicare Fraud Strike Force's work; he noted that in the last decade, over 3,000 individuals were charged for fraudulently billing Medicare over \$11 billion collectively. He also diagrammed a shorter time period for emphasis: from the start of 2016 through February of 2017, nearly 500 people were charged with billing fraud totaling around \$2.8 billion. In addition, there were 180 criminal convictions earned and over \$500 million was repaid to federal and state authorities.

## Sessions essentially collapses Health Care Corporate Fraud Strike Force

However hale and hearty the Medicare Fraud Strike Force has been, there was no indication that Sessions was getting ready to trim resources from other strike forces. Early last month, he did just that, removing three of the five full-time attorneys from the Health Care Corporate Fraud Strike Force, an arm of the DOJ dedicated to complex



cases of fraud occurring in the corporate sector. Sessions has not eliminated positions in other strike forces (for example, the Organized Crime Drug Enforcement Task Forces Program and of course the Medicare Fraud Strike Force).

The Health Care Corporate Fraud Strike Force was rolled out in 2015 by Attorney General Eric Holder for the purpose of handling especially complicated fraud cases that involved large corporations. Prior to the Corporate Fraud Strike Force's inception, those cases would have fallen under the Medicare Fraud Strike Force's purview.

The Health Care Corporate Fraud Strike Force's staff (before the Sessions shrinking) included five veteran trial lawyers tasked with identifying, investigating, and prosecuting complex corporate healthcare fraud not handled by the Medicare Fraud Strike Force. For instance, in the fall of 2016 the Corporate Fraud Strike Force handled a \$516 million settlement between Tenet Healthcare and the government (Tenet was charged with receiving kickbacks for patient referrals).

## **Opioid epidemic has AG's attention**

In terms of priorities, Sessions's sweet spot may be where drug abuse and fraud intersect. Last month he reported that over 400 defendants in more than 20 states were charged with taking part in fraudulent healthcare schemes that totaled more than \$1.3 billion in damages. And more than a quarter of those defendants were charged with illegally distributing prescription opioids.

It's no secret that combatting the nation's opioid crisis is a high priority for Sessions. Blanco's appointment as Deputy Assistant Attorney General reflects that — much of Blanco's career history is in the drug enforcement arena, including roles as Acting Chief of Narcotics in the U.S. States Attorney's Office for Southern District of Florida, as well as Chief of the Narcotic and Dangerous Drug Section at the DOJ.

## **Corporate health care fraud will still be on U.S. Attys' radar**

This Sessions-led downsizing in staff does not mean, however, that corporate health care fraud cases are a thing of the past. U.S. Attorney's Offices nationwide are expected to continue rooting out and prosecuting corporate healthcare fraud.

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