

False Claims Act Defense

False Claims Act enforcement is big business for the government. With exploding recoveries, FCA liability threatens health care organizations with multiple damages and penalties in cases brought by the U.S. Department of Justice, states attorney generals and whistleblowers. The sprawl of FCA liability continues to dramatically increase as whistleblowers file lawsuits at a record pace. Because DOJ civil and criminal prosecutors review all qui tam complaints, health care organizations now face an unprecedented degree of scrutiny.

Polsinelli attorneys are positioned to defend health care companies against the risks of FCA enforcement. Drawing on the firm's experience in the health care industry, our collaborative team of former federal prosecutors and health care attorneys respond to government investigations by ensuring that our client's story is heard and respected. The firm's attorneys have seen success against criminal and civil prosecutors in trial, negotiated favorable outcomes to avoid licensure risks, and have assessed impacts on referral sources and patient care/management, as well as government or commercial payer exclusion.

Our lawyers are well known to health care regulators, state attorney generals, the Department of Justice and Office of Inspector General, as well as judges across the country. Many of our lawyers came out of those agencies – including OIG and DOJ – and understand the perspective and goals of those regulators and law enforcement agencies.

We have represented health care providers, suppliers, and manufacturers involved in alleged violations in every phase of qui tam proceedings under the False Claims Act, including, but not limited to the following allegations:

- State and federal anti-kickback statutes
- The Stark laws
- Medicare and Medicaid reimbursement rules
- Insurance and billing fraud
- Medical Necessity and Utilization
- Off-label marketing
- Upcoding