29th Annual National Institute on Health Care Fraud

May 8–10, 2019
Hilton New Orleans Riverside
New Orleans, LA

visit www.ambar.org/hcf2019 to register
29th Annual National Institute on Health Care Fraud
May 8–10, 2019 | Hilton New Orleans | New Orleans, LA

Description of Proceedings
The 29th Annual National Institute on Health Care Fraud provides a rewarding educational experience for health care attorneys, regulators, compliance professionals, state and federal prosecutors, criminal defense attorneys, and qui tam relators’ counsel. This national institute draws panelists, facilitators, and participants from each of these significant groups and offers unique opportunities to meet and share experiences and concerns in a non-adversarial setting.

The program planning committee is committed to creating a program that advances education, communication, professionalism, and discussion of current legal and ethical issues that arise in the health care fraud practice. These issues are addressed in panel discussions and small workshop formats designed to maximize audience participation.

Who Should Attend?
• Health Care Attorneys
• Regulators
• Prosecutors
• Criminal Defense Attorneys
• Qui Tam Relators’ Counsel
• Compliance Professionals

Register Today!
For the best value, join an ABA Section

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To register, visit www.ambar.org/hcf2019

Presented by
ABACLE
ABA Criminal Justice Section
Louisiana State Bar Association

Sponsored by:
Watkins & Eager, PLLC

Reception Sponsor:
Nelson Mullins Broad and Cassel

15 hours of CLE general credit, including 2 hours of CLE ethics in 60-minute states and 18 hours of CLE general credit for this program, including 2.40 hours of CLE specialty credit in 50-minute states.
Faculty

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Latour Lafferty  
Holland & Knight LLP  
Tampa FL

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Faculty subject to change without notice.
### Wednesday, May 8, 2019

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<tr>
<td>1:00 p.m.</td>
<td><strong>Registration Opens</strong></td>
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| 2:00 p.m. | **Government Enforcement And Compliance Matters:**  
*A Road Map For General Counsel And Compliance Professionals*  
**Moderator:** John Kelly  
**Panelists:** David Pivnick, Winifred Weitsen, Matthew Stafford, Holly Snow  
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. |
| 4:00 p.m. | **Break**                                                              |
| 4:15 p.m. | **Enforcement And Compliance Developments In Louisiana and Beyond**  
**Panelists:** Matthew Chester, Richard Westling, Ellison Travis, Patrice Sullivan  
This session will examine recent enforcement and compliance trends and developments in Louisiana. |
| 5:30 p.m. | **Adjourn**                                                            |

### Thursday, May 9, 2019

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| 8:45 a.m. | **General Registration And Welcoming Remarks**  
**Gabriel L. Imperato, Program Chairman** |
| 9:00 a.m. | **Keynote Speaker**  
**Assistant Attorney General-Criminal, Brian Benczkowski** |
| 9:45 a.m. | **Government Enforcement Panel**  
**Moderator:** Kirk Ogrosky  
**Panelists:** Joseph Beemsterboer, Gregory Demske, Michael Granston, Alec Alexander, David Tanay  
This panel will discuss the roles investigation roles and coordination between enforcement and regulatory agencies in health care fraud enforcement matters. |
| 10:45 a.m. | **Break**                                                              |
| 11:00 a.m. | **False Claims Act Developments**  
**Moderator:** Jonathan Diesenhaus  
**Panelists:** John Boese, Claire Sylvia, Ben Wei  
This panel will discuss important legal developments and current litigation and settlements in False Claims Act cases. |
| 12:30 p.m. | **Lunch Keynote Address: Stark Law Developments**  
**Keynote Speaker:** Vicki L. Robinson, Senior Counsel for Policly, Office of the Inspector General |
| 1:30 p.m. | **Criminal, Civil And Administrative Enforcement In Kickback Cases**  
**Moderator:** Katherine Lauer  
**Panelists:** Amy Easton, Tracy Hilmer, Sally Molloy  
This panel will review recent developments in the prosecution of violations of the Anti-Kickback statute in criminal, civil and administrative proceedings. |
| 2:45 p.m. | **Break**                                                              |
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.

A. Electronic Medical Records And The False Claims Act
R. Joseph Burby, Owen Foster, Adam Schwartz
A discussion of the application of the false claims act and anti-kickback statute to electronic medical records. The presentation will address various areas of exposure and liability, explore corporate cooperation in the context of EHRs, and discuss damages principals.

B. Overpayment Liability And Self-Disclosure
Julie Kass, Tamar Terzian
This session will review the most up to date information regarding reporting Stark, Kick-Back and Overpayment issues to the government - should you disclose and if so to what government entity. This session will also discuss the most recent cases regarding the 60-day repayment rule and the practical implications.

C. Damages And Settlement
Laura Laemmle-Weidenfeld, Tim Rejilian
This workshop will be a presentation and open discussion focusing on the key principles underlying False Claims Act damage calculations; discuss some of the current debates and emerging trends related to the calculation of damages; address the application of damage calculation principles to specific types of cases; provide practical tips for considering damages in a settlement negotiation context.

4:00 p.m. Break

4:15 p.m. A. Enforcement And Compliance: Quality Of Care And Medical Necessity
Mark Polston, Tom Corcoran, Eden Ezell
This workshop will examine the legal standards for False Claims Act liability for deficiencies in the quality of care and medical necessity and the reasonableness of health care services. The co-presenters will also examine different theories of liability and defenses in these types of False Claims Act cases.

B. Pre-Trial Pleadings And Discovery In False Claims Act Cases
Michelle Bradford, Ryan Stumphauzer
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.

C. Negotiating False Claims Act Settlements And Mediation
Sarah Hall, Hon. Janice Symchych, Mark Vezina, Candice Deisher, Natalie Waites
This session will focus on the use of negotiation and mediation for resolving healthcare False Claims Act cases. The panel will discuss how best 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.

5:30 p.m. Adjourn

6:00 p.m. - 8:00 p.m. Welcome Reception
Sponsored by Nelson Mullins Broad and Cassel
## Trial Practice Demonstration – United States of America v. Amir A. Bajoghli

**Moderator:** Joe Whitley  
**Panelists:** Murad Hussain, Peter White, Nicholas Dingeldein

In 2015, a renowned Virginia dermatologist, surgeon, and professor at GWU Medical School was tried on 48 counts of health care fraud and aggravated identity theft. This panel presentation will examine the issues and evidence presented at trial involving allegations that the doctor (1) misdiagnosed patients with cancer so he could perform unnecessary surgery, (2) billed for unsupervised medical assistants performing post-op closures, (3) billed for unsupervised Nurse Practitioner services as if performed by the physician, and (4) billed for outside biopsy services performed by a third party lab and pathologist as if performed in-house.

### Health Care Fraud Workshops

#### A. Managed Care Fraud And Enforcement

Benjamin Singer, Carrie Bashaw

Presenters will describe recent enforcement actions involving, regulatory and legal developments in, and compliance guidance for Managed Care organizations.

#### B. Fraud And Abuse In Nursing Homes

Thom O’Hanlon, Craig Holden

The panelists will discuss hot topics in nursing home fraud and patient abuse cases. Topics covered in this interactive panel discussion will include criminal investigations and prosecutions in cases involving allegations of patients abuse; investigations and False Claims Act cases involving allegations of substandard care; and, criminal and civil cases involving allegations of financial fraud and false claims by nursing home providers. Each of these topics will be addressed from the government, relator and defense perspective.

#### C. Home Health And Hospice Enforcement And Compliance

L.T. Lafferty, Sara Vann

This workshop will focus on hospice and home health hot topics in the context of recent enforcement actions. It will address areas of focus in government investigations, including records review, sampling and falsity “plus” factors. Participants will have the opportunity in an open discussion format to explore competing viewpoints on risk areas such as eligibility and supporting documentation, and the certification process.

### Break
11:30 a.m. **Health Care Fraud Workshops**

**A. Anatomy Of A Corporate Integrity Agreement and Compliance Program**
Michael Regier, Susan Gillin, Steven Ortquist
This workshop will discuss the CIA provisions including recent changes. Should organizations not subject to a CIA adopt or adapt common CIA provisions? Additionally, panelists will offer pointers for negotiating, implementing and managing a CIA.

**B. Federal Administrative Enforcement**
Thomas Beimers, Michael Torris
This session will cover Office of Inspector General administrative authorities, including affirmative exclusions and Civil Monetary Penalties. We will also discuss enforcement trends and recent settlements, including the intersection with other agency actions and audits. The session will also address compliance measures that mitigate against liability.

**C. Whistleblowers Case Study**
Matthew Organ, David Chizewer
This workshop will discuss who are whistleblowers, why they become whistleblowers and the ways that counsel evaluate those matters presented by their clients for filing of a whistleblower case under the False Claims Act.

12:30 p.m. **Lunch Break (Grab & Go Lunch)**

12:45 p.m. **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.

**A. Workshop For Defense And In-House Counsel**
Kathryn Sasser, John Bentivoglio, Andy Rittenberg
The panelists will discuss hot topics for defense lawyers and in-house counsel in health care fraud investigations, including document collection and production in the age of mobile devices and social media, interacting with current and former employees (including the advancement of legal fees), handling internal whistleblowers, and the role of legal and compliance in government investigations.

**B. Workshop For Government Counsel**
Gustav Eyeler
This confidential workshop will involve topics of discussion between Department of Justice, Office of Inspector General, Medicaid Fraud Control Unit and other Government counsel of strategy and tactics involved in criminal and civil False Claims Act, Kickback and Stark Law cases.

**C. Workshop For Qui Tam/Relators And Other Plaintiffs Counsel**
David Chizewer, Matthew Organ
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 p.m. **Break**

2:00 p.m. **Federal And State Enforcement And The Opioid Crisis**
**Moderator:** Meridith Auten
**Panelists:** Gustav W. Eyler, Larissa Payne, Adam Schwartz, David Rybicki, Michael Cohen
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 progress.

3:15 p.m. **Adjourn**
Register

**Step 1: Registration Rates**

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Save when you register one or more attorney for this National Institute.
3-5 attendees – save 5%
6-10 attendees – save 10%
10+ attendees – contact the ABA Center for Professional Development
To register your group of 3 to 10 and receive the discount, please call the ABA Service Center at 800-285-2221.

**RECEPTION:**
- I will attend the reception

**Step 2: Section Membership**

If you are already a member of one or more sections below, you can enroll in the others, or move on to Step 4.
- ABA Criminal Justice Section Enrollment - $60 Enter your $60 fee on line 2B.

**Step 3: Course Materials**

Electronic course materials will be provided via download at least 48 hours prior to the start of the Institute.

**Step 4: Your Total Due Amount**

Registration Rate (from Step 1)  
2A $ _________________

ABA Criminal Justice Section Enrollment - $60 (from Step 2)  
2B $ * _________________

Total $ _________________

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Step 5: Your Information

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Law Firm/Organization

Address

City

State

Zip Code

Telephone

Email

ABA Member ID

Step 6: Payment Information

- ABA Credit Card from Bank of America
- Visa®/MasterCard
- American Express
- Check Payable to American Bar Association

Name as it appears on Card

Account Number

Expiration Date

Signature

Step 7: 4 Easy Ways to Register

Visit http://www.ambar.org/hcf2019

Call (800) 285-2221

Fax this form to (312) 988-5850

Complete and mail this form:

The American Bar Association
Event Registration Unit
321 N Clark St, Fl 16
Chicago, IL 60654-7598

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MCLE
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Scholarships
Financial scholarship applications are available for this conference. To request an application or receive additional information, please go to this link: www.americanbar.org/groups/cle/scholarship.

Attire
Business casual attire is appropriate for all activities.

Cancellations
Cancellations received five business days or more before the program will receive a full refund, less a $50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA at (800) 285-2221 or fax your request to (312) 988-5885. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the program course materials after program completion.

Attendees with Special Needs
Please specify your special needs at ambar.org/hcf2019 or contact staff designee Donna Williams, Meetings Manager, at donna.williams@americanbar.org; or (312) 988-6210. Every effort will be made to accommodate advance requests; onsite requests cannot be guaranteed.

I will need the following accommodations: Interpreters: ❑ ASL Transliterators ❑ Oral ❑ Tactile ❑ Trilingual ❑ Deaf ❑ Other (please specify): ❑ Communication Access Realtime Translation (CART) (realtime speech to text translation displayed on computer or large screen) ❑ Captioned videos ❑ Notetaker ❑ Reader Assistive Listening Devices: ❑ Hearing/Induction Loops ❑ FM Systems ❑ Infrared Systems ❑ Other (please specify): ❑ Headphones/Earbuds to Connect to Assistive Listening System Materials in Alternative Formats: ❑ Large Print (specify font size: ) ❑ Braille ❑ Audio ❑ Digital Files ❑ Flash Drive/CD ❑ Orientation by staff to the facility/meeting site Special Diet: ❑ Vegetarian ❑ Vegan ❑ Gluten-free ❑ Dairy-free ❑ Nut-free ❑ Pre-cut Meal ❑ Other (please specify): ❑ Accessible Transportation: Event Date(s) Time(s) Location(s) ADA Accessible Guestroom: ❑ Roll-in shower ❑ Shower/tub chair ❑ Visual alerts (fire and other emergency alarms, door knocks, phone calls) ❑ Audible alerts/alarms ❑ Scent free ❑ Wheelchair/Mobility Device Accessible ❑ Other (please specify): ❑ A personal care attendant will be accompanying me. ❑ A service animal will be accompanying me. ❑ I will be using a mobility device at the conference. ❑ Additional needs (please specify): ___________________