

Enforcement Trends

B. Scott McBride

Morgan, Lewis & Bockius LLP

Wilson G. Jones

Thompson & Knight LLP

1

Enforcement Landscape

Parallel Investigations

Criminal, Civil, Administrative

Individual Accountability

For corporate wrongdoing

Interagency Cooperation

Includes state and local gov't

Data Analytics

Data mining, targeted codes, suspicious
billing patterns

Amplified Penalties & Exclusion Authority

2

2

COVID-19 Funding

- The COVID-19 pandemic has resulted in legislative acts involving trillions of dollars in funding to be used to help address various issues brought on by the pandemic.
 - Families First Coronavirus Response Act
 - CARES Act
 - Paycheck Protection Program and Healthcare Enhancement Act
 - Consolidated Appropriations Act
- The COVID-19 pandemic has also impacted the healthcare industry beyond the financial funding.

3

3

COVID-19 Enforcement

- The DOJ is focused on detecting and prosecuting fraud related to the COVID-19 pandemic funding sources and activities.
 - “Coronavirus-related wrongdoing will continue to be a DOJ priority for the foreseeable future.”
 - The DOJ “will make it a priority to use the False Claims Act to combat fraud in the Paycheck Protection Program” and “other assistance programs created by the CARES Act.”
 - The DOJ notes that “To anyone thinking of using the global pandemic as an opportunity to scam and steal from hardworking Americans, my advice is simple – don’t.” “No matter where you are or who you are, we will find you and prosecute you to the fullest extent of the law.”

4

4

COVID-19 Enforcement

- Potential Issues:
 - False representation on funding eligibility
 - Misuse of funds
 - False certification on loan forgiveness
- The CARES Act includes certain enforcement oversight.
 - Pandemic Response Accountability Committee to provide oversight of the funds made available under the CARES Act.

5

5

COVID-19 Enforcement

- Some COVID-19 enforcement actions include:
 - Misappropriation of funds through inappropriate or inflated expenses
 - Misappropriation of funds through shell companies
 - Selling and promoting fake and unlawful cures or treatments
 - Kickbacks for personal protective equipment; fake PPE
 - Making false statements to federally insured banks to influence those banks to approve a PPP loan

6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Enforcement Trends Across the Healthcare Industry

Also available as part of the eCourse

[eSupplement to the 7th Annual Government Enforcement Institute](#)

First appeared as part of the conference materials for the
32nd Annual Health Law Conference session

"Enforcement Trends Across the Healthcare Industry"