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Newly Announced Chicago Health Care Fraud Unit Could Signal a Change in the Northern District of Illinois's Health Care Enforcement Priorities

On July 18, 2017, Acting U.S. Attorney for the Northern District of Illinois, Joel R. Levin, announced the creation of a dedicated criminal Health Care Fraud Unit. The five prosecutor unit will operate within the Criminal Division and be led by Section Chief Heather McShain. The addition of the Health Care Fraud Unit gives the Northern District of Illinois a dedicated set of resources to carry out its enforcement efforts in an area that is both a local, regional, and national priority. The unit will focus on the prosecution of all types of health care fraud.

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Levin's announcement came less than a week after his office brought charges against 15 individuals as part of the nationwide Medicare Fraud Strike Force. This action—the largest in the Strike Force's history—involved charges against 412 people, including 115 medical professionals, with submitting \$1.3 billion in fraudulent health care billings. Strike Force indictments in the Northern District of Illinois included the submission of false insurance claims, identity theft, and the solicitation and payment of kickbacks for Medicare referrals. These Strike Force indictments represent the types of individual health care-related prosecutions that have been carried out by the Northern District of Illinois in recent years.

Historically, the Northern District of Illinois has focused on the criminal prosecution of individuals. Recent cases include the prosecution of a chiropractor whose phony billing scheme cost insurers nearly \$11 million, and the prosecution of the head of a telemarketing company who received kickbacks in exchange for health agency referrals. The Northern District of Illinois has also, where applicable, charged health care fraud defendants with other related offenses ranging from tax evasion and embezzlement to the distribution of controlled substances.

Also prevalent in the Northern District of Illinois are prosecutions for home health care fraud. In 2013, the Centers for Medicare and Medicaid Services ("CMS") cited Chicago as a high-risk area for fraudulent home health care activities, and imposed the first-ever moratorium on the enrollment of new home health care providers in the Chicago area. Stephen Chahn Lee, considered a national expert on home health fraud, is joining the new Health Care Fraud Unit as Senior Counsel.

The establishment of the Health Care Fraud Unit, however, may signal a shift in the Northern District of Illinois's health care enforcement priorities. "Chicago has historically been home to a number of pharmaceutical and medical device companies, as well as large medical centers. Combined with Chicago's growth in the managed care, post-acute care, and digital health care markets, this inevitably makes it a focus of interest for the Northern District of Illinois," says Deborah Gersh, co-chair of the health care practice at Ropes & Gray. The Chicago Health Care Fraud unit follows the creation of similar units in Boston, Detroit, Philadelphia, and Miami. These units have typically leveraged their resources to pursue criminal health care fraud actions against corporate, as well as individual, defendants.

A dedicated health care unit presents increased opportunities for cross-agency cooperation, particularly with the Department of Health and Human Services, the Food and Drug Administration, and the Office for Civil Rights. Whether the Health Care Fraud Unit results in an increased number of referrals from these agencies will be monitored closely by both the area's white-collar lawyers and Chicago's pharmaceutical and medical device companies. According to Ropes & Gray government enforcement partner Laura Hoey, "Health care and life sciences companies, especially those based in the Midwest, will be watching how Chicago's new Health Care Fraud Unit deploys its resources in the coming years, looking especially for signs of more aggressive pricing and kickback-based theories of liability like those we are seeing out of the Boston and Philadelphia U.S. Attorney's Offices."

The establishment of a dedicated criminal Health Care Fraud Unit could also spark an increase in the filing of False Claims Act lawsuits in the Northern District of Illinois. Hoey noted that "having a set of prosecutors dedicated to health care fraud makes Chicago a more attractive venue for whistleblowers considering *qui tam* lawsuits and hoping for government intervention."

Please contact [Laura Hoey](#), [Debbie Gersh](#), or your usual Ropes & Gray attorney with any questions.