



## David S. Greenberg

PARTNER

David advises the health care industry on regulatory and compliance matters, disputes, and government investigations.



### Industries

Health Care  
Long Term Care & Senior Living

### Practices

ERISA  
Government Enforcement & White Collar

### Education

University of Maryland School of Law JD  
Colgate University BA, with honors

### Offices

Washington, DC

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David concentrates his practice on regulatory issues related to the Affordable Care Act, the False Claims Act, the Anti-Kickback Statute, the Stark Laws, managed care laws, state licensure, self-disclosures, reimbursement and payment, and participation in Medicare, Medicaid, and other government health care programs. He is experienced in conducting internal investigations and representing health care companies in state and federal audits, enforcement actions, False Claims Act investigations, and litigation.

Additionally, David has particular insight into the issues surrounding managed care contracting and routinely represents health care providers in significant reimbursement and coverage disputes and litigation with managed care companies, health insurers, third-party administrators, FEHB plans, Medicare Advantage plans, Medicaid managed care plans, TRICARE, and employer-sponsored health plans. His work frequently addresses compliance with ERISA, COBRA, the Affordable Care Act, the Medicare Secondary Payer Act, the FEHB Act, the Medicare Advantage program, Medicaid managed care programs, the TRICARE program, and state insurance laws.

David regularly speaks and writes on legal issues impacting the health care industry. He is lead editor of the Practising Law Institute treatise *Health Care Litigation and Risk Management Answer Book* and is a contributing author to the Bloomberg Law treatise: *Health Care Fraud and Abuse: Practical Perspectives*.

### Client Work

David has represented integrated health care companies, dialysis providers, clinical laboratories, hospital systems, home health providers, ambulatory surgery centers, pharmaceutical companies, hospices, long-term care providers, physician practice management companies, physicians, and health insurers. His recent work has included:

- Representing a health care provider in a multi-million dollar reimbursement dispute with the TRICARE program.
- Defending a clinical laboratory in a multi-million dollar reimbursement dispute against a Medicare Advantage plan.

- Counseling a national physician practice company on fraud and abuse and compliance matters.
- Representing multiple health care providers in a state Medicaid administrative proceeding regarding the suspension of Medicaid provider numbers.
  - Counseling a dialysis company on regulatory, compliance, and contracting matters.
  - Developing and implementing the overhaul of the compliance program for a health care and social services agency.
  - Advising a laboratory consulting company on regulatory and compliance matters.
  - Representing a health care provider in multiple multi-million dollar reimbursement disputes with Medicaid managed care plans.
  - Defending a hospital system in a US Department of Justice (DOJ) investigation.
  - Advising a hospice company regarding an FBI investigation into its billing practices.
  - Counseling a national home health company on regulatory, reimbursement, and compliance matters related to its participation in state Medicaid programs.
  - Representing surgery centers and medical device makers in reimbursement disputes with health insurers.
  - Conducting internal investigations on behalf of multiple skilled nursing facility chains concerning compliance with Medicare program billing and payment rules.
  - Counseling an integrated health care company on the implementation of health insurance exchanges mandated by the Affordable Care Act.
  - Representing a dialysis company in an intervened False Claims Act suit.
  - Representing a national hospice company in False Claims Act litigation.
  - Acting as outside general counsel for a nonprofit community health and social service organization.
  - Acting as outside general counsel to a startup, health care technology company.

## Previous Work

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Prior to joining Arent Fox, David worked in the DC office of a leading national law firm where he specialized in antitrust and health care litigation. While at that firm, he litigated complex cases in state and federal court involving health insurers, innovator pharmaceutical companies, generic pharmaceutical companies, and pharmacy benefit managers.

Upon completion of law school, David worked as an attorney for the Civil Division of the DOJ. While at DOJ, he was a member of the small team of lawyers responsible for administering the federal September 11, 2001, Victim Compensation Fund.

## Professional Activities

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David is a member of the American Health Lawyers Association and the Health Law Section of the American Bar Association.

## Publications, Presentations and Recognitions

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David speaks and publishes frequently on issues pertaining to the health care industry, particularly on the False Claims Act and health care litigation. He is lead editor of the Practising Law Institute treatise *Health Care Litigation and Risk Management Answer Book* and is a contributing author to the Bloomberg Law treatise: *Health Care Fraud and Abuse: Practical Perspectives*. David is also a frequent guest lecturer at the George Washington University Healthcare Corporate Compliance Program.

While in law school, David was an articles editor and on the executive board for the ABA publication, *The Business Lawyer*.

David's speeches and presentations include:

- "Fraud and Abuse Initiatives by Health Insurers against Providers: Perspectives from Both Sides," American Health Lawyers Association (AHLA) 2018 Fraud and Compliance Forum, September 26, 2018
- "Dealing with Problem Payors – Legal Solutions for Providers in Reimbursement Disputes," Healthcare Financial Management Associate (HFMA) Virginia-DC Fall Education Conference, September 21, 2018
- "Health Law Roundtable Discussion with Senior Government Attorneys from CMS, DOJ, and OIG," ABA/Arent Fox LLP Event, July 19, 2018
- "Emerging Risk Management and Litigation Issues for Health Care Organizations: What Keeps Us Up at Night?," PLI Webcast, October 8, 2015
- "Moving to Outcome-Oriented Care: Regulatory and Enforcement Challenges," American Health Lawyers Association Fraud and Compliance Forum, September 27, 2015
- "Navigating Reverse False Claims and Medicare Overpayments Amid Strict Enforcement of the 60-Day Rule," Strafford Webinars, December 17, 2014
- "Working with the C-Suite and Outside Counsel," George Washington University Healthcare Corporate Compliance Program Capstone Presentation, September 30, 2014
- "Working with the C-Suite and Outside Counsel," George Washington University Healthcare Corporate Compliance Program Capstone Presentation, May 13, 2014
- "Hot Trends in Reimbursement," Presentation at Los Angeles County Bar Association Healthcare Compliance Symposium, October 10, 2013

David's publications include:

- "The Healthy Indiana Plan: A National Model for Medicaid Reform?" Bloomberg BNA, November 16, 2017
- "Examining State Law Claims under ERISA at 2nd Circuit," Law360, June 19, 2017
- "False Claims Act Penalties Set to Double, Far Exceeding Expected Increase," *Health Care Counsel*, May 6, 2016
- "The Move to Value-Based Payment Continues: CMS Announces Initiative to Transform Primary Care Delivery and Payment," *Health Care Counsel*, April 18, 2016
- "Health Care Industry Braces for Major False Claims Act Case Before Supreme Court," *Health Care Counsel*, April 13, 2016
- Co-author, "Oral Arguments Set for Major False Claims Act Case Pending Before Supreme Court," *AHLA Weekly*, April 8, 2016
- "CMS's Long-Awaited Final 60-Day Repayment Rule Provides Guidance and Eases Some Requirements for Health Care Providers and Suppliers," *Health Care Counsel*, February 18, 2016
- "Deputy AG Branda Provides Insights into Department of Justice Enforcement Priorities at AHLA Fraud and Compliance Forum," *Health Care Counsel*, September 28, 2015
- Co-author, "CMS Announces Sweeping Reform of Conditions of Participation for Long-Term Care Facilities," *Bloomberg BNA Medicare Report*, August 14, 2015
- "Government Pulls Out All the Stops to Investigate and Prosecute Medicare Fraud Against Sacred Heart Hospital Executives in Chicago," *Bloomberg BNA*, April 15, 2015
- "The Civil False Claims Act," *Health Care Litigation and Risk Management Answer Book 2015*, Practising Law Institute, 2015
- "Managed Care Disputes and Litigation," *Health Care Litigation and Risk Management Answer Book 2015*, Practising Law Institute, 2015
- "US Department of Justice's False Claims Act Recoveries Reach a Record \$5.7 Billion in Fiscal Year 2014," *Health Care Counsel*, December 23, 2014

- “Health Care Industry: Expect More DOJ Criminal Prosecutions on the Horizon,” *Health Care Counsel*, September 22, 2014
- “The DOJ Intervenes in ‘Reverse False Claims Act’ Case,” *Health Care Counsel*, July 11, 2014
  - “Recent Developments in OIG Exclusion: Health Care Corporate Executives in the Crosshairs,” *Bloomberg BNA Pharmaceutical & Industry Report*, June 14, 2013
  - “CMS Clarifies Sequestration Does Not Mandate Cuts in Medicare Advantage and Prescription Drug Benefit Payments to Contracted Providers, Suppliers, and Pharmacies,” *Arent Fox Legal Alert*, May 3, 2013
  - “Protecting the Out-of-Network Option,” *ASC Focus*, November/December 2012
  - “Federal Courts Reject Violations of DME Supplier Standards As Basis for False Claims Act Liability,” *Arent Fox Legal Alert*, November 7, 2012
  - “The False Claims Act Amendments: The Curious Conundrum of Retroactivity,” *The Health Lawyer*, v. 22, No. 5, June 10, 2010
  - “The False Claims Act: Recent Amendments and their Implications for Higher Education,” *NACUANOTES*, v. 8, No. 8, April 16, 2010
  - “Two Pending False Claims Act Cases Highlight Government Theory that Failure to Comply with DME Supplier Standards Renders Medicare Claims False,” *Arent Fox Legal Alert*, December 22, 2009
  - “Tenth Circuit Decision Raises Doubts About False Claims Act Liability Predicated on Provider’s Certifications of Compliance in Annual Cost Reports,” *Arent Fox Legal Alert*, November 2, 2009
  - “Legal Actions Against Commercial Insurers For Improper Manipulation Of Out-Of-Network Reimbursement Rates to Impact Healthcare Providers,” *Health Lawyers Weekly*, February 2009

## Life Beyond the Law

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When David is not working, he likes to escape DC for the mountains and lakes of northern New Hampshire with his wife and two kids. He also maintains an unhealthy allegiance to DC’s long-suffering sports teams (although the Capitals have offered him a bit of relief recently).

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## Bar Admissions

District of Columbia

Maryland