

# Stat Law

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**Health Care Fraud Enforcement Efforts Break Record:** The U.S. Department of Health & Human Services (HHS) released its annual Health Care Fraud & Abuse Control Program report ([www.oig.hhs.gov/publications/hcfac.asp](http://www.oig.hhs.gov/publications/hcfac.asp)) showing that it recovered nearly \$4.1 billion in Fiscal Year (FY) 2011, the largest sum ever recovered in a single year, and filed criminal charges against a total of 1,430 defendants for health care fraud related crimes, the highest number of health care fraud defendants charged in a single year in HHS' history. A total of 743 defendants were convicted for health care fraud-related crimes. The ever expanding Medicare Fraud Strike Force Teams charged a record number of 323 defendants, who allegedly collectively billed the Medicare program more than \$1 billion, and secured 172 guilty pleas, convicted 26 defendants at trial and sentenced 175 defendants to prison, with an average prison sentence of over 47 months. Approximately \$2.4 billion was recovered in FY 2011 through civil health care fraud cases brought under the False Claims Act. KACS' Daniel Giaquinto specializes in the defense of physicians charged with health care fraud.

**The Long Arm of the Florida Board of Medicine Can Reach You:** As physicians find themselves practicing under greater regulatory scrutiny, holding a license in more than one state can complicate their defense in even minor cases. Falling short of a CME requirement, missing a license filing deadline, getting pulled over for a DUI/DWI, failing to properly supervise subordinates or dispensing too much pain medication can not only create problems in their home state, but could lead to problems in every state where they ever held a license. These so-called sister-state licensing boards, like the Florida Board of Medicine, often insist on an accused physician appearing before them even if a physician's home state has already taken action. Unfortunately, some physicians do not take these sister-state actions seriously and find themselves being severely disciplined or having their licenses in those states revoked. Since such sister-state actions are reportable to the National Practitioner Data Bank, they can have a profound impact on a physician's practice back home when it comes time to re-credential with a hospital or health plan. In many states, simply retiring or relinquishing a license will not avoid problems. Physicians licensed in more than one state, when confronted with an issue at home, should always consult legal counsel who can assess the risk in those other states, as well. KACS' Bob Conroy, admitted to practice in NY, NJ, PA, FL, DC and CA, stands ready here at home to help tri-state physicians with potential sister-state licensure problems.

**Distribution Ordered Entered in United Healthcare Settlement:** U.S. District Court Judge Lawrence McKenna has signed a final order approving the distribution of the Net Settlement Fund in *AMA. v. United Healthcare*, brought by the Medical Society of the State of New York and the AMA, among other parties. The court order gives approval to the Settlement Administrator, Berdon Claims Administration, to distribute the Settlement Fund of \$350 million plus interest, minus court approved awards, fees and expenses, based upon approved claims that were submitted by class members, which included both physicians and United Healthcare subscribers. In addition to the \$350 million settlement in the case, United Healthcare agreed to certain business practice initiatives, including an agreement that it and its affiliates would stop using the Ingenix database to determine out-of-network reimbursement and instead use a new database independently established and operated by a not-for-profit consortium of NYS university-level schools of public health. This led to the creation of Fair Health, Inc. It is believed that the \$350 million settlement is the largest settlement against a health insurer.

## UPDATE 2012

Late breaking news on  
medical-legal developments  
affecting physicians and  
health care providers.

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