

White Collar Criminal Defense & Government Investigations

FRIER LEVITT
ATTORNEYS AT LAW

Frier Levitt's White Collar Criminal Defense and Government Investigations Practice Group represents healthcare professionals and life sciences companies who have, or may, become the subject of criminal investigations, prosecutions, and civil or administrative investigations. We recognize that effective representation begins before investigation begin or criminal charges are brought, and that not all matters which have caught the attention of the Government warrant criminal charges or resolution through the criminal justice system. We are able to provide a fair and independent review of potential problem areas and conduct internal corporate investigations when the need arises. Often times a civil or regulatory inquiry becomes a criminal investigation or prosecution because the civil case was not handled with the requisite level of experience. Our attorneys have both extensive criminal defense experience and a deep understanding of federal and state healthcare laws and regulations.

Frier Levitt's attorneys have decades of experience representing clients not only in trial, but also during pre-investigation and investigatory phases, including:

- Healthcare or pharmacy-related audits that may generate criminal charges
- Responding to grand jury and administrative subpoenas
- Search warrants
- Requests by the Government for interviews and information
- Civil or administrative matters where a criminal referral may be made

It is important in life sciences and healthcare cases that the collateral consequences of a criminal matter to a licensed professional are understood, and that a comprehensive, global approach is taken in the defense. Thus, our team of attorneys have the multidisciplinary knowledge and experience to protect you from every angle. We utilize a team approach to provide the most comprehensive advice to our clients in order to develop the best possible strategy for dealing with each client's specific needs.

Our team also possesses extensive experience in the utilization government "Self-Disclosure" programs. Self-Disclosure is offered by a variety of federal and state agencies, allowing providers that may have run afoul of regulations to report and remediate certain transgressions. Most Self-Disclosure protocols provide those that self-report to avoid them more draconian enforcement pen-alties. We have successfully negotiated countless settlements with federal and state agencies.

In addition, Frier Levitt's extensive regulatory and clinical knowledge enables us to understand and resolve the issues that underpin pharmacy and healthcare-related investigations and prosecutions. These qualifications, along with diligent and aggressive preparation and a willingness and ability to try difficult cases, is the formula for effective negotiations with authorities, and favorable outcomes when trial is necessary. Knowledge of your rights and best quality of representation is imperative in every stage of an investigation, from initial contact by the authorities through final disposition of the matter. Our attorneys will inform you of your rights and provide you with the best defense in every case.

Contact us today
to speak to an
attorney about
defending against
or avoiding criminal
prosecution and
government
enforcement
action.

What We Do continued

Negotiating Value Based Care Contracts that are Fair and Equitable for the Provider

- Negotiate terms and conditions for new shared savings, bundled payment, and global capitated risk agreements with payors that contain, among other things, payor data/methodological transparency, robust provider-side auditing rights of payor data, fair and efficient dispute resolution procedures in connection with valuating shared savings/risk
- Negotiate directly with employers and other Plan Sponsors to create/tailor provider-side-favorable value based contracts

Keeping Payors Honest

- Work with data scientists and actuaries to determine payor compliance with value based care contract payment provisions (e.g., evaluating accuracy of payor-assigned patient risk scores in a globally capitated payment model, assessing the accuracy of a shared savings/risk determination)
- Pre-litigation dispute resolution with payors – both private and governmental – to leverage appropriate financial compensation in cases where payors underpay shared savings owed or have assessed too much shared risk against a provider
- Litigate breach of value based care contracts against commercial carriers, Medicare Advantage Organizations, Managed Medicaid Organizations, State Medicaid Plans, and Medicare

Keeping Your Practice Compliant in Light of Value Based Care Specific Regulations and Guidance

- Draft standard operating procedures and provide compliance training to ensure a practice's compliance with regulations prohibiting receipt of payments in exchange for the reduction or limitation of medically necessary services, when shared savings arrangements may incentivize such misconduct
- Evaluation of whether a practice is at "substantial financial risk" pursuant to Provider Incentive Plan regulations requiring stop-loss protection or evaluate preexisting stop-loss protection for legal sufficiency

Defending Providers in White Collar Criminal and/or Civil Investigations or Prosecutions Matters Arising Out of a Value Based Agreement

- Defend providers accused of False Claims Act violations for, e.g., alleged risk adjustment upcoding
- Defend providers accused of violating the Civil Monetary Penalties Law in connection with shared savings arrangement
- Defend providers sued by payors for breach of value based care contracts

Who Do We Represent?

Frier Levitt has represented a diverse range of provider entities or their subcontractors in value based care related matters, including:

- Hospitals
- Self-funded Health Plans
- Independent medical practices
- Hospital-based medical practices
- Private Equity-based medical practices
- Clinically Integrated Networks (CINs)
- Accountable Care Organizations (ACOs)
- Independent Physician Associations (IPAs)
- Patient Centered Medical Homes (PCMHs)
- Provider vendors and consultants, such as healthcare data analytics firms, with provider gainsharing agreements
- Drug manufacturers

Questions?

Jonathan Levitt, Esq., Daniel Frier, Esq., and Jason Silberberg, Esq. currently head Frier Levitt's value based care group. **Contact Us today** to speak with one of our attorneys specializing in value based care.