

CORPORATE COMPLIANCE ALERT

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Prescription Drug Fraud Prosecutions on the Rise — Law Enforcement Agencies Casting a Broad Net

The number of prosecutions for prescription drug fraud is expected to increase in 2014, keeping pace with increases seen in 2013. Much of the upsurge has been attributed, at least in part, to the full implementation of the Patient Protection and Affordable Care Act (“Act”) and uncertainty over the health care exchanges. As the exchanges and corresponding subsidies increase health care spending and reduce the number of uninsured, all health care providers should expect greater scrutiny over their prescribing and dispensing practices.

Health care investigations into prescription drug fraud typically focus on fraudulent billing, drug manufacturing, and drug diversion. Fraudulent billing occurs when a provider submits a fraudulent invoice or fraudulent or false claim to a federal or private insurer for reimbursement for prescription drugs that have not actually been dispensed. Drug manufacturing practices are also increasingly coming under review to ensure that drug manufacturers are processing chemicals in conformity with set standards, and not substituting compounds with less expensive, unsafe products. Drug diversion, also expected to become a major focus of both state and federal investigative agencies in 2014, occurs when legally prescribed medications are dispensed for an abusive or illegal purpose.

State, federal and local law enforcement agencies are working collaboratively to dismantle prescription fraud and diversion networks throughout the United States. A major mechanism in uncovering these networks has been through data mining of billing and drug dispensing data. Through their review of this data, government and private investigators are now able to quickly and efficiently detect inappropriate and fraudulent prescribing and dispensing practices, leading to successful prosecutions of those individuals or entities identified.

In this climate of heightened scrutiny, even well intentioned health care providers are advised to understand the importance of proper documentation and recordkeeping of patient interactions. Accordingly, all providers should review their compliance processes and protocols to avoid any improper prescribing or dispensing in 2014.

For further information, please contact the following Roetzel attorneys:

Anthony J. Calamunci
419.254.5247 | acalamunci@ralaw.com

Brian E. Dickerson
202.570.0248 | bdickerson@ralaw.com

Ned Milenkovich
312.582.1676 | nmilenkovich@ralaw.com

James Schuster
216.820.4231 | jschuster@ralaw.com

Jonathan R. Secrest
614.723.2029 | jsecrest@ralaw.com

Nicole Hughes Waid
202.906.9572 | nwaid@ralaw.com

Anne E. Brown
312.580.1636 | aebrown@ralaw.com

Amy L. Butler
419.254.5270 | abutler@ralaw.com

Amanda M. Knapp
216.615.7416 | aknapp@ralaw.com