

2018 Chicago Regional Compliance Event

Linda A. Wawzenski
Assistant United States Attorney
Northern District of Illinois

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Topics for Discussion

- **DOJ Strike Force and U.S. Attorney's Office Initiatives**
- **Recent DOJ policies and their impact on health care fraud prosecutions**
- **Case law developments including post-*Escobar* decisions**

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Fraud Priorities



- Healthcare fraud is the single largest focus
- DOJ Strike Force
- Home Health example

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Tax Reform Act of 2017

Section 13306 requires designating what part of a settlement constitutes “restitution.”

Eliminates certain types of deductible expenses related to FCA settlements.

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The Granston Memo

Factors to use in evaluating motions to dismiss in *qui tam* suits:

- Meritless cases
- Parasitic suit
- Interfering with agency policies
- Controlling the litigation

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The Granston Memo

- Safeguarding classified information
- Preserving government resources during litigation
- Addressing procedural errors

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The Brand Memo

Limitation on the use of agency guidance in FCA cases

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Proposed Changes to E&M Coding

Under the proposal, providers would no longer use the five levels of E&M codes for office visits. There would be one code and one payment amount.

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Escobar

Implied certification and materiality

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Questions?

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