

Compliance Today – February 2022 DOJ's 2021 healthcare fraud enforcement action (or takedown): New name, same priorities

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On September 17, 2021, the U.S. Department of Justice (DOJ) and the U.S. Department of Health & Human Services Office of Inspector General announced another healthcare-related “takedown” — this time casting the spotlight on COVID-19–related fraud.^[1] However, the DOJ has opted to rebrand this enforcement action, referring to it as the “National Health Care Fraud Enforcement Action,” rather than relying on the “takedown” language used in prior large-scale enforcement actions.

This takedown, or “enforcement action,” comes on the heels of DOJ’s much smaller 14-defendant takedown/enforcement action announcement this past May.^[2] We note that “takedown” is somewhat of a misnomer, considering that both the enforcement actions actually occurred over numerous months preceding the press events. Nonetheless, both takedowns targeted alleged healthcare fraud schemes, with the most recent involving approximately \$1.4 billion in alleged losses and 138 defendants charged, including 42 licensed medical professionals.^[3]

As it has since the COVID-19 pandemic broke, DOJ continues to focus its enforcement efforts on telemedicine, which accounted for approximately \$1.1 billion of the \$1.4 billion estimated losses. Additionally, DOJ continues to focus on fraud relating to substance abuse treatment facilities (or “sober homes”) and illegal opioid distribution schemes. To a smaller extent, DOJ is cracking down on COVID-19–related healthcare fraud, but such charges accounted for only nine of the 138 defendants and only \$29 million of the \$1.4 billion alleged loss amount. We do expect to see COVID-19–related enforcement continue in the coming months.



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