



Michael H. Phillips

Associate

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OVERVIEW

Mike Phillips is an associate and a member of the Health Care and FDA practice group. Mike's practice includes reimbursement compliance, defense, and litigation with a focus on Medicare and Medicaid audits and private payor audits. He has experience in responding to government audits and handling the various stages of the administrative appeals process for the Medicare Program, including appeals of final agency determinations at the federal district court-level. Mike also provides practical advice to health care providers, suppliers, manufacturers, and other ancillary health care providers within the pharmaceutical, laboratory, and durable medical equipment industries on compliance with the Anti-Kickback Statute (AKS), Civil Monetary Penalties (CMP) Law, the False Claims Act (FCA), and other regulatory matters.

Mike's practice includes representing entities across a variety of industries who are subject to government investigations, enforcement, and other regulatory actions. Mike also has experience in conducting internal investigations for entities regarding a range of civil and criminal issues, and assessing potential legal exposure. In addition, Mike has experience in assisting health care providers and business associates with data breach and security incident response efforts.

PROFESSIONAL BACKGROUND

Prior to joining the firm, Mike served as an associate in the Washington, D.C., office of another global law firm where he focused on health care as well as privacy and cybersecurity issues. On the health care-side, Mike mainly focused on health regulatory and transactional issues, including advising digital health companies, hospitals, and health systems on regulatory concerns. Mike also played a role in investigations arising under Health Insurance Portability and Accountability Act (HIPAA) subpoenas and advised clients on potential FCA and AKS liability. From a privacy and cybersecurity standpoint, Mike has counseled clients across various industries in responding to data security incidents by coordinating forensic investigations, leading notification reviews, and advising clients on notification compliance. He has also provided more proactive assistance to companies in preparing for data security incidents by drafting incident response plans and privacy policies. Mike has familiarity with a myriad of state and federal privacy laws, having provided companies with practical regulatory compliance guidance on comprehensive state consumer privacy laws (e.g., CCPA, VCDPA, and CPA), the Children's Online Privacy Protection Act (COPPA), and HIPAA.

He has also conducted privacy and health care due diligence reviews for mergers, acquisitions, and potential investments, with a focus on Telephone Consumer Protection Act and CAN-SPAM compliance, as well as health care fraud and abuse, and other compliance concerns.

While in law school, Mike served as a judicial intern for the Honorable Judge Anthony J. Trenga at the US District Court for the Eastern District of Virginia. He also interned at the Office of the Federal Public Defender for the Eastern District of Virginia.

EDUCATION

- J.D., Duke University School of Law, 2020 *cum laude*; *Articles Editor, Law & Contemporary Problems*
- B.A., University of Virginia, 2016 *with distinction, History & Foreign Affairs*

ADMISSIONS

- Bar of District of Columbia
- Bar of Ohio
- Bar of South Carolina

THOUGHT LEADERSHIP POWERED BY HUB

- 8 March 2024, What's Been Missing: District Court Orders the Government to Produce Complete Universe of Claims in Provider's Due Process Challenge to Extrapolated Overpayment
- 29 February 2024, US Department of Justice Announces US\$2.68 Billion in Fiscal Year 2023 False Claims Act Recoveries
- 5 July 2023, Supreme Court Affirms Government's Broad Dismissal Authority in False Claims Act Suits
- 8 June 2023, Supreme Court Issues Decision Regarding False Claims Act's Scienter Element
- October 2022, False Claims Act: Insights on Local and National Developments

OTHER PUBLICATIONS

- "Due Process: A Winning Weapon Against Extrapolated Overpayments," *American Health Law Association*, 11 April 2024
- "The Causation Conundrum: The Growing Circuit Split Surrounding Causation and Kickback-Premised False Claims Act Cases," *American Health Law Association*, 13 February 2024
- "Righting an Institutional Wrong: Redefining an Overpayment Through HHS-OIG's Policy Shift on Zero-Paid Claims," *American Health Law Association*, 11 August 2023

- “Scienter Center Stage,” *American Bar Association*, 27 March 2023
- “Scienter to Become Front and Center: Developments in the FCA’s Objectively Reasonable Interpretation Defense,” *Federal Bar Association*, January 2023
- “Statistical Sampling and Extrapolation,” *American Bar Association*, 28 December 2022
- “The Hunt is On: OIG Targets Telehealth Fraud During the COVID-19 Pandemic,” *American Bar Association*, 31 October 2022

AREAS OF FOCUS

- Health Care and FDA
- Federal, State, and Local False Claims Act
- Health Care Fraud and Abuse (U.S.)
- Health Care Payor-Provider Disputes (U.S.)
- White Collar Defense and Investigations

INDUSTRIES

- Digital Health
- Health Care Sector