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Nextcare Inc. \$10 Million False Claims Act Settlement Shows Qui Tam Role In False Claims Act Prosecutions

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A False Claims Act settlement announced last week with Arizona-based urgent care chain NextCare Inc. provides another illustration of the growing exposure that qui tam and other reports of illegal practices by employees, contractors and other business partners create for health care and other companies.

Last week, Justice Department officials announced that NextCare Inc agreed to pay \$10 million to settle federal and state allegations that it submitted false claims initially raised in a lawsuit filed against NextCare Inc. by former NextCare employee Lorin Cohen.

The settlement resolves allegations that NextCare violated the False Claims Act by:

- Submitting false claims to Medicare, TRICARE, the Federal Employees Health Benefits Program, and the Medicaid programs of Colorado, Virginia, Texas, North Carolina and Arizona, by billing for unnecessary allergy, H1N1 virus and respiratory panel testing and
- Upcoding when billing for urgent care medical services.

As a condition of the settlement, NextCare Inc. will become subject to a five-year Corporate Integrity Agreement with HHS-OIG.

Investigated and prosecuted as part of the Federal government's highly touted HEAT initiative, the Nextcare Inc. settlement emphasize both the strong commitment by the Department of Justice and HHS to find a prosecute Medicare and Medicaid financial fraud and the growing importance of qui tam actions and other insider reports of legal violations to the success of these actions.

Qui tam and other fraud reports made by employees or other business partners have become a significant tool in the Federal government's war against health care fraud. Under the False Claims Act, private citizens acting as relators can bring suit on behalf of the United States and share in the recovery. Ms. Cohen will receive \$1.614 million as her share of the recovery.

Through the False Claims Act alone, the Justice Department has recovered more than \$7.7 billion since January 2009 in cases involving fraud against federal health care programs. The Justice Department's total recoveries in False Claims Act cases since January 2009 are over \$11.3 billion.

In response to the Nextcare Inc. settlement and other enforcement actions, health care providers should strengthen both their health care compliance and employment management processes. In addition to working to promote compliance with the False Claims Act and other health care laws,

health care providers need to implement strong internal investigation, audit, and employee and contractor management procedures to help self-discover and address potential compliance or other liability concerns.

As part of these efforts, health care providers generally should not only provide hotlines for reporting suspected fraud or other misconduct. Many health care providers also can benefit by adopting and enforcing strong policies that require employees, contractors and other business partners to timely report and cooperate in the investigation and redress of potential health care fraud or other legal violations, should promptly investigate and redress as needed alleged noncompliance, and should retaliation against individuals making these reports in good faith. GSK and other enforcement actions show that Federal officials are acting on this promise.

For More Information Or Assistance

For help designing, enforcing or defending your organization's health care compliance, workforce and risk management policies, practices or programs; assessing the strength of your organizations existing risk management and compliance controls under these laws or other healthcare laws and regulations; or in addressing other compliance or health care concerns, please contact Cynthia Marcotte Stamer via e-mail [here](#) or via telephone at 469.767.8872. To review and register to receive other helpful updates or for more information about Ms. Stamer and her experience, see [here](#).

Vice President of the North Texas Health Care Compliance Professionals Association, Past Chair of the ABA Health Law Section Managed Care & Insurance Section and the former Board Compliance Chair of the National Kidney Foundation of North Texas, Ms. Stamer has more than 24 years experience advising health industry clients about these and other matters. Her experience includes advising hospitals, nursing home, home health, rehabilitation and other health care providers and health industry clients to establish and administer compliance and risk management policies; prevent, conduct and investigate, and respond to peer review and other quality concerns; and to respond to Board of Medicine, Department of Aging & Disability, Drug Enforcement Agency, OCR Privacy and Civil Rights, HHS, DOD and other health care industry investigation, enforcement and other compliance, public policy, regulatory, staffing, and other operations and risk management concerns.

A popular lecturer and widely published author on health industry concerns, Ms. Stamer continuously advises health industry clients about compliance and internal controls, workforce and medical staff performance, quality, governance, reimbursement, and other risk management and operational matters. Ms. Stamer also publishes and speaks extensively on health and managed care industry regulatory, staffing and human resources, compensation and benefits, technology, public policy, reimbursement and other operations and risk management concerns. Her insights on these and other related matters appear in the Health Care Compliance Association, Atlantic Information Service, Bureau of National Affairs, The Wall Street Journal, Business Insurance, the Dallas Morning News, Modern Health Care, Managed Healthcare, Health Leaders, and a many other national and local publications. You can get more information about her health industry experience [here](#). If you need help responding to concerns about the matters discussed in this publication or other health care concerns, wish to get information about arranging for training or presentations by Ms. Stamer, wish to suggest a topic for a future program or update, or wish to request other information or materials, please contact Ms. Stamer via telephone at (214) 452-8297 or via e-mail [here](#).

If you or someone else you know would like to receive future updates about developments on these and other concerns from Ms. Stamer, see [here](#).

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Solutions Law Press™ provides business risk management, legal compliance, management effectiveness and other resources, training and education on human resources, employee benefits, compensation, data security and privacy, health care, insurance, and other key compliance, risk management, internal controls and other key operational concerns. If you find this of interest, you also be interested reviewing some of our other Solutions Law Press resources including:

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- [Houston Man Gets 24 Month Prison Sentence For Anti-Kickback & Other Health Care Fraud Convictions](#)
- [Oklahoma's Harmon Memorial Hospital, Physician Pay \\$1.5M Qui Tam Health Care Fraud Settlement](#)
- [OCR's Shares HIPAA Audit Program Protocols As Announces \\$1.7M Resolution Agreement Against Alaska Medicaid](#)
- [OCR Nails Alaska Medicaid For \\$1,700,000 To Settle HIPAA Security Charges](#)
- [Supreme Court Now Expected To Release Ruling On Health Care Reform Law Thursday](#)
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- [Arizona Physician Group Pays \\$100K To Settle HIPAA Charges](#)
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If you or someone else you know would like to receive future updates about developments on these and other concerns, please be sure that we have your current contact information – including your preferred e-mail – by creating or updating your profile [here](#). For important information concerning this communication click [here](#).

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