

# Former HHS, Office of Inspector General Senior Counsel Joins Berkeley Research Group

Berkeley Research Group announced that Kristen Schwendinger has joined the Health Analytics practice in the firm's Washington, DC, office and will focus on Corporate Compliance and Risk Management.

She joins BRG from the U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG) and has significant industry experience across provider and supplier entities. She will focus her consulting practice on pharmaceutical, biotech and medical device manufacturers, a wide array of healthcare providers, companies in other regulated industries and individuals on a variety of compliance-related issues, including federal healthcare laws and regulations; policies and procedures; compliance assessments related to Department of Justice (DOJ), Securities & Exchange Commission and other regulatory investigations; IRO monitoring and testing; CIA readiness assessments and reporting; and creative restructuring and reform.

Before joining BRG, Schwendinger served as a senior counsel at HHS OIG, where she focused on healthcare enforcement, compliance and investigations. She has experience in the government's fraud investigation process, the False Claims Act, Anti-Kickback Statute, Civil Monetary Penalties Law and exclusions from federal healthcare programs. Schwendinger is a respected compliance professional, having managed numerous corporate integrity agreements while advancing the OIG's approach to corporate monitoring.

“In a climate of increased scrutiny and accountability for compliance programs, it is an exciting time to join BRG’s Corporate Compliance and Risk Management team. I am honored to contribute to BRG’s impressive team, bringing knowledge from monitoring corporations as part of my expertise from HHS OIG,” said Schwendinger.

In a release, the company says:

Schwendinger brings deep experience to BRG for a wide range of providers to include grantees, contractors, life science companies, physician practices, hospitals, health centers, durable medical equipment, pharmacies, manufacturers and long-term care providers and suppliers. Among her accomplishments are collaborations on various matters with the National Institutes of Health, Food and Drug Administration and Centers for Disease Control and Prevention, as well as with HHS representatives at the Centers for Medicare & Medicaid Services. She also worked on OIG’s updated healthcare provider self-disclosure protocol, in addition to processes for disclosures by contractors or grantees.

Across hundreds of cases for which she obtained settlements or judgments, Schwendinger advocated for OIG’s enforcement positions related to hospice, home health, durable medical equipment, life science companies and individual providers. She served as OIG’s Grant and Contract Fraud coordinator, earning awards for excellence and innovation. She also served as a member of the grant fraud subcommittee for the DOJ’s Financial Fraud Task Force for HHS OIG. Working from the start of investigations through to resolutions, she took depositions and also handled appeals before the Departmental Appeals Board and federal courts. She championed an initiative for OIG to obtain new grant and contract Civil Monetary Penalty Law authority, which was enacted as a part of the 21st Century Cures Act.

“We are excited to have someone of Kristen’s caliber join BRG’s Corporate Compliance team. Her OIG and healthcare experience will strengthen our range of services to life sciences and other organizations, as well as their counsel.” said Ed Buthusiem, Managing Director of BRG’s Corporate Compliance and Risk Management team.

Prior to her time at the OIG, Schwendinger worked at IU Health (formerly Clarian Health) and Massachusetts General Hospital on community benefits tax reporting and research fundraising.

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## [Jury Hits Hospital With \\$26M Med-Mal Verdict in Tragic Birth Case](#)

Jurors took just eight hours to award a Brooklyn couple \$26 million – double what they had sought – after overwhelmed medical residents at Maimonides Medical Center allegedly botched the birth of their twins, leaving one dead and the other deaf and mute, reports the [New York Post](#).

Under a “high-low” agreement struck earlier by both sides, the plaintiffs agreed to receive a “high” of \$7.5 million if they won their suit and a “low” of \$1.5 million, even if they lost, according to reporter [Julia Marsh](#).

In 2010, the expectant mother went to the hospital twice with cramping and spotting but was sent home by doctors-in-training, according to the lawsuit. When her twins daughters were born later, they weighed about 1.5 pounds each. A month later, one died from an infection, and the other is deaf and suffers from kidney failure.

[Read the Post's article.](#)

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## [Federal Financial Resources Essential to Addressing Opioid Crisis](#)

President Trump declared the opioid crisis a public health emergency, stopping short of calling it a national emergency. The announcement expands access to treat the epidemic, but doesn't free new federal funding for cities and states to use.

Dallas attorney [Jeffrey Simon](#) of [Simon Greenstone Panatier Bartlett](#), who represents Texas counties suing drug manufacturers, says more federal funding is needed.

"I commend the president for using his platform to highlight the epidemic of opioid abuse in America," said Simon. "Opioid addiction is a disease rather than a character flaw, and the president's effort to draw this distinction is welcome. But the financial costs of successfully treating opioid addiction

are substantial, as are the costs of effective educational programs to stem the epidemic. I remain hopeful that our federal government will devote the financial resources necessary to combat this health crisis, but that remains to be seen.

“I contend that the second essential step to addressing any problem, after acknowledging its existence, is to identify the source of the problem. Our Texas county governments, which pay high costs to combat the opioid abuse epidemic in their communities, are doing this very thing. They are fighting back. Counties we represent, such as Bowie County and Upshur County, have filed lawsuits against drug manufacturers and wholesale distributors for the purpose of holding them financially accountable for their roles in promoting and selling so many of these addictive drugs.

“On behalf of their citizens, these county governments are confronting the opioid abuse epidemic in their communities. We are proud and privileged to serve Texas counties as legal counsel in this fight.”

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## **U.S. States Allege Broad Generic Drug Price-Fixing Collusion**



Image by  
[Images Money](#)

A large group of U.S. states accused key players in the generic drug industry of a broad price-fixing conspiracy, [reports Reuters](#).

Reporter Karen Freifeld writes: “The states said the drugmakers and executives divided customers for their drugs among themselves, agreeing that each company would have a certain percentage of the market. The companies sometimes agreed on price increases in advance, the states added.”

The suit names 18 companies and subsidiaries and named 15 medicines. Mylan NV, Teva Pharmaceuticals USA, Ascend Laboratories and Encure Pharmaceuticals are among the 18 companies named.

*The Los Angeles Times* also covered Mylan’s challenges: “[A price-fixing noose tightens around Mylan, the company that profited from the Epipen.](#)”

[Read the Reuters article.](#)

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# [Dismissal of \\$472 Million Verdict v. J&J is Disaster for Talc Plaintiffs](#)

A ruling that throws out a plaintiff's \$417 million jury verdict against John & Johnson will affect many of the nearly 5,000 women who claim they developed ovarian cancer from J&J powder containing talc, [reports Reuters](#).

"The judge's skepticism about causation will reverberate across the talc litigation in California because she's overseeing all of the more than 800 suits by women who attribute their cancer to J&J powders that contained talc," writes [Alison Frankel](#). "Unless their lawyers can come up with better evidence than Echeverria – or unless scientific developments boost causation theories – Judge Nelson's decision is ominous for plaintiffs and a boon for J&J and its subsidiary."

[Read the Reuters article.](#)

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# Appeals Court Tosses \$72 Million Award in Talcum Powder Case



Image by [Open Grid Scheduler / Grid Engine](#)

The Associated Press [is reporting](#) that a Missouri appeals court on Tuesday that vacated a \$72 million award to an Alabama woman who claimed her use of Johnson & Johnson products that contained talcum contributed to her ovarian cancer has thrown the fate of awards in similar cases into doubt.

“The appeals court cited a Supreme Court ruling in June that placed limits on where injury lawsuits could be filed, saying state courts cannot hear claims against companies not based in the state where alleged injuries occurred. The case involved suits against Bristol-Myers Squibb over the blood-thinning medication Plavix,” writes the AP’s Margaret Stafford.

More than 1,000 plaintiffs have filed similar lawsuits in St. Louis against New Jersey-based J&J. “In four of five trials held so far, jurors awarded more than \$300 million combined. Only two of the 64 cases attached to Fox’s case lived in Missouri,” according to Stafford.

[Read the AP article.](#)



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# Lessons Learned: Vendor Sued in Class Action Suit for Security Misses

By [Eric Begun](#)  
[King & Fisher](#)



You're thinking that something about the title of this post sounds familiar, right? Information technology (IT) vendors and third party service providers have been in the spotlight for security breaches for some time (see, for example, vendor-based security lapses affecting Target, CVS, and Concentra, as just a few), and it doesn't sound surprising that an IT vendor has been sued related to a security incident. After all, whether you're an IT vendor or an IT customer, if you draft or negotiate contracts for a living, these situations are what you try to contract for, right?

Right...but...the recent federal class action suit filed in Pennsylvania against Aetna and its vendor surfaces several new privacy and security considerations for vendors and their customers. The vendor in question was not an IT vendor or service provider. Instead, the plaintiff's allegations relate to Aetna's use of a mailing vendor to send notification

letters to Aetna insureds about ordering HIV medications by mail. According to the complaint, the vendor used envelopes with large transparent glassine windows – windows that did not hide the first several lines of the enclosed notification letters. The plaintiff asserts that anyone looking at any of the sealed envelopes could see the addressee's name and mailing address – and that the addressee was being notified of options for filling HIV medications. As a result, the vendor and Aetna are alleged to have violated numerous laws and legal duties related to security and privacy.

For all vendors and service providers, but especially those that don't focus primarily on privacy and security issues, the Aetna complaint is enlightening. To these vendors and service providers, and to their customers: Do your customer-vendor contracts and contract negotiations contemplate what Aetna and its mailing vendor may not have?

- Do your contracts for non-IT and non-healthcare services fully consider the risk of privacy and security litigation? A noteworthy facet of the Aetna case is that the mailing vendor was sued for privacy and security violations that were not exclusively due to the customer's acts or omissions. That is, while the contents of the mailer certainly were key, the vendor's own conduct as a mailing services provider (not an IT or healthcare provider) was instrumental in the suit being filed against the vendor (and Aetna). Vendor services that previously didn't, or ordinarily don't, warrant privacy or security scrutiny, may, after all, need to be looked at in a new light.
- Do your contract's indemnification and limitation of liability clauses contemplate the possibility of class action litigation? Class action litigation creates a path for plaintiffs to bring litigation for claims that otherwise could not and would not be brought. Class action litigation against data custodians and owners for

security breaches is the norm, and the possibility and expense of class action litigation is frequently on the minds of their attorneys and contract managers who negotiate contracts with privacy and security implications. But, for vendors and service providers providing arguably non-IT services to these customers – the idea of being subject to class action litigation is often not top-of-mind.

- Before entering into a contract, have you considered whether the specific vendor services being provided to the particular customer in question implicate laws you hadn't considered? Vendors that operate in the information technology space – and their customers – generally are well-aware of the myriad of privacy and security laws and issues that may impact the vendors' business, including, as a very limited illustration, the EU General Data Protection Regulation, HIPAA, New York Cybersecurity Requirements, Vendors that aren't "IT" vendors (and their customers), on the other hand, may not be. For example, the Aetna mailing vendor may not have contemplated that, as alleged by the Aetna plaintiff, the vendor's provision of its services to Aetna would be subject to the state's Confidentiality of HIV-Related Information Act and Unfair Trade Practices and Consumer Protection Law.
- Have you considered which specific aspects of vendor services may directly impact potential legal liability, and have you adequately identified and addressed them in the contract? No, this is not a novel concept, but it nonetheless bears mention. A key fact to be discovered in the Aetna litigation is whether it was Aetna, or the vendor, that made the decision to use the large-window envelopes that, in effect, allegedly disclosed the sensitive and personally identifiable information. Given the current break-neck pace at which many Legal and Contract professionals must draft and negotiate contracts, however, unequivocally stating in a contract

the details and descriptions of every single aspect of the services to be provided is often impractical (if not impossible). But, some contract details are still important.

Whether or not this class action suit is an outlier or is dismissed at some point, consider data security and other privacy and security issues in contracts and how vendor or service provider conduct may give rise to a security breach or security incident.

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## [HIPAA Compliance Checklist Webinar](#)

Compliance Group will present [a webinar](#) on HIPAA compliance. The event will be Tuesday, Oct. 17, at 2 p.m. EDT.

“Through the years of helping the Healthcare industry become HIPAA compliant and pass their HIPAA audits, we continually run into the same HIPAA compliance issues and questions,” the company says on its website. “In this webinar we will run through a HIPAA compliance checklist of what needs to be done for your organization to meet the Federal Requirements. All attendees will receive a FREE personal walk through of their organization and to answer all their questions, concerns and to focus you on what your organization needs.”

Questions discussed include:

- What do I need to do to become HIPAA compliant?
- I've done my Security Risk Assessment, now what?
- Is there a such thing as overkill when it comes to HIPAA?
- Can you automate HIPAA compliance completely?
- Is group or individual training sufficient?

[Register for the webinar.](#)

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## [Key Commercial Questions When Contracting for Digital Health Solutions](#)

In a [new article](#), Covington's global cross-practice [Digital Health team](#) considers some key questions that companies across the life sciences, technology, and communications industries should be asking as they seek to fit together the regulatory and commercial pieces of the complex digital health puzzle.

In this installment in the three-part series, Covington's team discusses the questions:

1. Will you own or have rights to use the data that is collected and generated, and any insights, models, and algorithms that are developed?
2. Do you have commitments from your suppliers to provide

functions at service levels suitable for the health sector and designed to maintain patient/user trust?

3. When you are structuring strategic collaborations to develop and deliver a digital health service, have you taken into account uncertainties as to the ultimate composition of the service, its customers, and its reimbursement model?

[Read the article.](#)

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## [Register for the Healthcare Enforcement Compliance Institute](#)



The [Healthcare Compliance Institute](#) is scheduled for Oct. 29-Nov. 1 in Washington, DC.

The event will give participants the opportunity to go beyond legal analysis, learn how to implement systems that ensure the law is followed, and gain practical advice from experts in a one-of-a-kind forum where lawyers and compliance officers work together, according to the Health Care Compliance Association.

Some of the topics to be covered include:

- Are We Ineffective at Assessing Compliance Program Effectiveness or Are Industry and Government Using Different Standards?
- Handling a Criminal Healthcare Fraud Case
- Tips and Tools for Mitigating CMS Enforcement Actions
- Using Data and Statistics to Defend Against Health Care Enforcement
- Your Company Has Been Served with a Civil Investigative Demand: Now What?
- Managed Care Fraud Enforcement & Compliance

[Register or get more information.](#)

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## Massive California Verdict Expands J&J's Talc Battlefield



Image by [Open Grid Scheduler](#)  
[/ Grid Engine](#)

Reuters [is reporting](#) that a massive California verdict in a

lawsuit alleging Johnson & Johnson's talc-based products cause cancer has opened a new front in the litigation.

"The \$417 million award by California jury to a California resident suggested so-called forum-shopping, in which parties seek to file cases in whichever jurisdictions seem most favorable, may not be the main problem facing J&J as it wrestles with some 4,800 outstanding talc lawsuits," according to reporter [Tina Bellon](#).

Previous talc cases, all tried in the same state court in St. Louis and involving out-of-state plaintiffs, totaled \$307 million.

[Read the Reuters article.](#)

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## [Big Pharma's Tobacco Moment as Star Lawyers Push Opioid Suits](#)

Big Pharma is having a Big Tobacco moment as litigation over opioids attract star lawyers and a growing list of states and local governments seeking their own multibillion-dollar payout to deal with costs of a burgeoning drug epidemic, reports [Bloomberg Law](#).



Six states have sued opioid makers, alleging they have created a public health crisis.

“Plaintiffs’ lawyer Joe Rice, a plaintiff lawyer who helped negotiate a \$246 billion settlement with the tobacco industry in 1998, suggests states are laying the groundwork to force a resolution that provides billions of dollars to cover the costs of an epidemic blamed for 62 deaths per day,” explain Jef Feeley and Jared S. Hopkins.

[Read the Bloomberg article.](#)

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## [Defense Lawyer: Shkreli Would Lose \\$65 Million If Convicted](#)

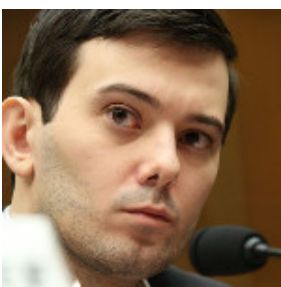


Image by [OversightandReform](#)

A defense lawyer says former pharmaceutical CEO Martin Shkreli would lose a \$65 million stake in a drug company he founded if he’s convicted at his securities fraud trial, reports the Associated Press through [ABC News](#).

The lawyer told jurors that a drug company official who testified against Shkreli was biased because the company would benefit financially if Shkreli is convicted of a felony.

“Shkreli is best known for raising the price of a life-saving drug by 5,000 percent and trolling his critics,” the AP reports.

[Read the article.](#)

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## [Buchalter Adds Three New Health Care Litigators in Los Angeles](#)

[Buchalter](#) announces that Andrew “Andy” Selesnick, Damaris L. Medina, and Suzanne Cate Jones have joined as shareholders in the Health Care Practice Group in Los Angeles. Selesnick and Medina joined the firm from Nixon Peabody, and Jones joined from Theodora Oringer.

A release from the firm continues:

Selesnick and Medina have successfully litigated a number of high-profile health care cases, many in the health care reimbursement arena. Their clients range from physicians and physician groups to hospitals and urgent care centers, pharmacies, dentists, and elective surgery centers.

Selesnick and Medina also defend providers in government investigations for fraud and abuse, and routinely represent health care providers in complex business disputes. Both Selesnick and Medina were recipients of a California Lawyer of the Year ("CLAY") award earlier this year for their California Supreme Court victory in *Centinela Freeman Emergency Medical Associates v. Health Net of California, Inc.* (2016) 1 Cal. 5th 994 where they successfully argued that Health Plans may be liable to providers of emergency services for negligently delegating their financial responsibility to IPAs.

Jones regularly advises and represents hospitals, medical staffs, and health systems in litigation involving a range of health care areas, including medical staff and peer review, antitrust, medical privacy/security breach, complex business and commercial contracting disputes, health regulatory issues, business torts, and the Federal False Claims Act. Jones also has successfully litigated and resolved health care related class action matters on behalf of hospital clients, including in the areas of medical privacy/security breach and unfair business practices, and is experienced in defending other types of putative class action lawsuits brought against corporate clients, including in the areas of wage/hour, consumer credit reporting, product liability and antitrust.

"Expanding our Health Care Practice is, and has been a priority for our firm. Andy, Damaris, and Suzanne are not only well-known and accomplished litigators, but also valuable assets to both our Health Care and Litigation Practices," said Adam J. Bass, President and Chief Executive Officer of Buchalter.

Selesnick is currently a member of the California Society for Healthcare Attorneys, Health Care Law Section of the Los Angeles County Bar Association, and the American Cancer Society Race for the Cure. He earned his J.D., at the

University of San Diego School of Law, and his B.A. at the University of California, Santa Barbara.

Medina serves as the Treasurer and on the Board of Directors for the Urgent Care Association of America, serves on the Board for the California Urgent Care Association, and is a member of the Los Angeles County Bar Association, Health Care Law Section, and the California Society for Health Care Attorneys. She earned her J.D., cum laude, at Suffolk University Law School where she earned a certificate in International Law, with distinction, and was also a member of Phi Delta Phi International Legal Honor Society. She earned her B.A. from Tufts University.

Jones has served on the board of the Health Law Committee for the California State Bar. She is also a member of the American Health Lawyers Association; American Bar Association, Health Law Group; and the Los Angeles County Bar Association, Litigation, and Health Care Law Sections. She earned her J.D. from Loyola Law School, Los Angeles where she was an editor of the International and Comparative Law Journal, her B.A. in History, Certificate in Russian Studies from the University of Southern California, and completed Russian Studies at the Pushkin Institute in Moscow, Russia.

“The addition of Andy, Damaris, and Suzanne is very complimentary to the transactional health care and life sciences work we are known for,” added Carol Lucas, Chair of Buchalter’s Health Care Practice Group. “We are thrilled to welcome the newest members of our team, and delighted to offer their impressive capabilities to our clients.”

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# Pharmaceutical Company Celgene Settles Suit for \$280 Million

The [Associated Press](#) is reporting that Celgene Corp. has agreed to pay \$280 million to settle a whistleblower lawsuit alleging the pharmaceutical company committed fraud promoting a drug with a notorious history that was re-purposed to treat leprosy and another therapy for unapproved cancer treatments.

The agreement, announced by federal prosecutors, came out of a lawsuit filed by a former Celgene saleswoman who said Celgene submitted false claims to Medicare and health care programs in 28 states and Washington, D.C.

“The lawsuit filed by Beverly Brown was brought on behalf of the U.S. government under a federal whistleblower law. She could receive as much as \$84 million as her share of the settlement,” writes Brian Melley.

[Read the AP article.](#)

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## [After N.F.L. Concussion Settlement, Feeding Frenzy of Lawyers and Lender](#)

Some former NFL players are receiving pitches for legal help in receiving checks from the league's legal sports history aimed at retirees who sued for lying about the dangers of concussions suffered by the players.

[Ken Belson](#) of [The New York Times](#) writes, "Some players may get very little, but others with severe neurological diseases may receive as much as \$5 million. Now lawyers, lenders and would-be advisers are circling, pitching their services and trying to get a cut of the money."

Some of the ex-players with severe neurological disorders are cognitively impaired and may not understand the terms used by the lawyers who make the pitches.

[Read the NYT article.](#)

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## [Potential Medicaid Cuts Put](#)

# Savings of Middle-Class Elderly at Risk

The health care bill the U.S. Senate is fine-tuning could have profound effects on elderly people who rely on nursing home care, says Houston-area elder law attorney [Kelley Bentley](#) of [Roberts Markel Weinberg Butler Hailey PC](#). Bentley is board certified in estate planning and probate law by the Texas Board of Legal Specialization.

*“The bill proposes large cuts to federal Medicaid support over several years with reliance on states to decide funding in the future. In Texas, nearly 70 percent of nursing home residents are enrolled in Medicaid.*

*“While many people may assume the program pays solely for health care for the poor, it also fills a gap for long-term care, including at-home and nursing home care for the elderly population. The cost of long-term care in the U.S. can be substantial and a serious drain on an individual’s assets. That includes middle-class retirees who sometimes have managed to save substantial assets. Some people simply outlive their savings for long-term care.*

*“Older people should take a hard look at their savings long before any health problems. Consider a long-term care savings plan or long-term care insurance and also talk to a lawyer about how to organize and protect assets. In Texas, long-term care Medicaid programs can provide a wide range of care, including nursing home, assisted living and at-home programs. The secret is to start to plan early, before the need arises as there are more options available for the preservation of assets. The goal is not necessarily to preserve assets for future generations, but to ensure that an individual (or married couple) has sufficient assets to cover any future long-term care needs.”*

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## [Ex-WellCare General Counsel Pleads Guilty in Florida Medicaid Case](#)

Reuters [is reporting](#) that an ex-general counsel of insurer WellCare Health Plans Inc. pleaded guilty on Wednesday in federal court in Tampa to having made a false statement to Florida's Medicaid program, prosecutors said, the latest former executive to be convicted in the case.

Thaddeus Bereday, indicted along with four other former WellCare executives in 2011, faces a maximum of five years in prison.

"Bereday's plea came after the U.S. Supreme Court in April declined to hear an appeal by former WellCare Chief Executive Todd Farha of his fraud conviction for his role in a scheme to cheat the Medicaid health insurance program for the poor," writes reporter [Nate Raymond](#).

[Read the Reuters article.](#)

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# HIPAA 101: The 30-Minute Guide to Understanding Compliance



Compliancy Group will present a free webinar on HIPAA compliance, titled “[The 30-Minute Guide to Understanding Compliance.](#)”

The event will be Tuesday, June 27, at 2 p.m. EDT.

In this webinar, the goal is to break down HIPAA compliance by walking you through the Regulation since the moment it was enacted in 1996, Compliancy Group says on its website.

“Through the years HIPAA regulation has undergone significant change, and the need to understand the Regulation has as well.

“Though it was once just another regulation, HIPAA has become a cultural issue for health care organizations of all kinds, affecting how to run a practice and the means of doing business. Join us through this timeline of HIPAA compliance and a how it pertains to you as a Covered Entity or Business Associate,” the site adds.

[Register for the webinar.](#)

## [More States Likely to Sue over Opioid Epidemic](#)



Texas lawyer [Kent Sullivan](#), who helped build a potent state health care fraud unit as the No. 2 lawyer in the Texas Attorney General's office, is convinced that more states will follow Mississippi and Ohio in suing to recover damages related to the opioid epidemic, reports a post on the website of [Androvett Legal Media & Marketing](#). Sullivan, now a partner in the Austin office of [Jackson Walker LLP](#), says states wield "a huge hammer" over defendants through their tough anti-fraud laws.

*"I expect a national trend, a significant wave of lawsuits against the companies and organizations connected with the spread of these powerful prescription drugs. States will be very tempted by the significant potential damages that may be awarded in court to try to recoup some of the costs of treatment.*

*"There is, of course, a way to successfully defend these cases, but at the beginning, state governments have a huge advantage under Medicaid fraud and consumer protection statutes. There is an easier burden of proof and enhanced damages available under these laws. Intent or negligence often is not required to prove liability. You have a huge hammer over these companies' heads, and they can be at risk*

*of losing more than actual damages. The damages are often multiplied if you're found liable, and the states can often recover attorneys' fees.*

*“As government health care has expanded, so have anti-fraud actions by states. These lawsuits are not part of the traditional private party litigation framework, where the burden of proof is higher. In many cases, the defendants consider settlement to avoid the significant risk and high cost of litigation. It is fairly unusual for these cases to go to trial but, as I often tell clients, the way to obtain the best settlement is to be totally ready for trial.”*

Sullivan, a former appeals court judge, was chief deputy AG to then-Attorney General Greg Abbott and ramped up the state's Civil Medicaid Fraud Division from four lawyers to over 40. In 2012, Texas won a \$158 million settlement from Johnson & Johnson over its improper marketing of the anti-psychotic drug Risperdal to patients on Medicaid from 1994-2008. It was the largest Medicaid settlement in Texas history and is believed to be the first settlement paid at that time to any state in the nationwide litigation over Risperdal.

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