



## David Deaton

Partner

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David Deaton, a nationally recognized leader in health care law and Chair of O'Melveny's Health Care Practice, represents major health insurers and other health care companies in complex, high-stakes regulatory, enforcement, and business matters. David conducts internal investigations for health care companies and audit committees, and he defends them in federal and state enforcement inquiries. He also counsels buyers and sellers in mergers and acquisitions and health care companies facing strategic business challenges and opportunities. In over 18 years at the firm, David has assembled a record of experience in the increasingly contested fields of state and federal anti-kickback and self-referral law (e.g., the Stark laws), Medicare and Medicaid reimbursement law, state and federal privacy law, and managed-care regulation. He frequently writes and speaks on these issues for national audiences and has been named one of the country's "Outstanding Healthcare Fraud & Compliance Lawyers" by *Nightingale's Healthcare News*.

## Experience

### Government Inquiries

- Defending a **national managed-care organization** in a *qui tam* False Claims Act investigation into compliance with Medicare Advantage regulations, including allegations related to inflated premiums resulting from inaccurate risk-adjustment submissions

## Admissions

### *Bar Admissions*

California

### *Court Admissions*

US District Court, Northern District of California

## Education

Southern Methodist University, J.D., 1999: *magna cum laude*; Order of the Coif; Comments Editor, *SMU Law Review*

University of California, Irvine, B.A., History, 1992

- Defending **an international biotechnology manufacturer** in a *qui tam* False Claims Act investigation into kickback and off-label allegations (the US Department of Justice declined to intervene and the *qui tam* plaintiff dismissed the case with prejudice)
- Representing **an academic medical center** in connection with state and federal investigations into off-label marketing allegations related to pharmaceutical sponsorship of medical research activities
- Defending **a national managed-care organization** in connection with state attorney general and congressional investigations into cancellations of individual health care insurance policies
- Defending **a nationally recognized physician clinic** in a False Claims Act investigation involving alleged kickbacks and self-referrals in violation of the Stark laws

### Internal Investigations

- Conducting an internal investigation into whistleblower allegations related to **a national managed-care organization's** compliance with Medicare Advantage regulations and the federal anti-kickback statute, which has led to disclosures to the US Department of Justice, the Centers for Medicare and Medicaid Services, the Office of the Inspector General of the US Department of Health and Human Services, and state regulatory and enforcement authorities
- Conducting an internal review of **a national managed-care organization's** compliance with Medicare Advantage risk-adjustment reimbursement rules
- Conducting an internal investigation into whistleblower allegations related to **a national pharmacy benefit manager's** compliance with Medicare Part D regulations
- Conducting an internal investigation into whistleblower allegations related to **a state Medicaid plan's** compensation arrangements with its providers
- Conducting an internal investigation into whistleblower allegations concerning the quality-control practices of **a biotechnology manufacturer**
- Conducting an internal investigation into kickback and Stark self-referral allegations related to **a hospital-physician joint venture**

### Strategic Counseling

- Advising **a pharmaceutical manufacturer** in connection with its compliance program, sales and marketing practices, and issues related to the Medicaid Rebate Program
- Counseling **a pharmacy benefits manager** concerning compliance with federal and state regulatory requirements and the enforcement landscape for the pharmacy benefits sector

### Transactional Diligence and Structuring

- Representing **a private equity fund** in an \$84 million leveraged buyout of a dental practice management company
- Representing **a private equity fund** in the \$137 million sale of a medical-equipment manufacturer
- Representing **a private equity fund** in its \$455 million sale of a national dental practice management company
- Representing **a long-term acute hospital chain** in a \$180 million asset sale to a competitor
- Advising **a hospital system** in connection with a \$315 million bond refinancing
- Advising **a nursing-home chain** in connection with a refinanced credit facility

## Trial Experience

- Defending **Alvarado Hospital Medical Center** in *US v. Weinbaum, et al.* Alvarado and its codefendants were accused of violating the federal anti-kickback statute by paying bribes, disguised as physician-relocation payments, to local doctors in exchange for patient referrals. After a seven-month trial in US District Court and four months of deliberations, the jury deadlocked and the court declared a mistrial. The government thereafter dismissed all criminal charges against Alvarado and its codefendants pursuant to a civil settlement.

## Professional Activities

### Author

- “Critical Questions To Consider About The ACA,” *Law360*, co-authored with Michael Maddigan and Stephen Sullivan (October 30, 2013)
- “Trepidation Over Health Insurance Exchanges,” *The Daily Journal*, co-authored with Stephen Sullivan (June 12, 2013)
- “The Affordable Care Act, Public Expectations, and the Road to Litigation: An Issue Spotter for Insurers and Risk-Bearing Providers,” *AHLA Connections*, Volume 17 Issue 2, co-authored with Stephen Sullivan (February 2013)
- “Navigating the Rising Legal Waters in Managed Care,” *American Health Lawyers Association’s Fraud & Abuse* newsletter, Volume 1, Issue 4, co-authored with Patricia Kuo and Stephen Sullivan (December 2012)
- “Is Sorrell the Death Knell for FDA’s Off-Label Marketing Restrictions?” *Journal of Health & Life Sciences Law*, co-authored with David Leviss and Caitlin Bair (February 2012)
- “Distressed Healthcare: Significant Considerations for Buyers, Sellers, and Lenders Arising from the Intersection of Healthcare and Bankruptcy Laws,” *Journal of Health & Life Sciences Law*, co-authored with Stephen Warren and Andrew Parlen (January 2010)
- “Enforcement Related to Off-Label Marketing and Use of Drugs and Devices: Where Have We Been and Where Are We Going?” *Journal of Health & Life Sciences Law* (January 2009)
- “Practice Management Companies—Practice Pointers from Recent Case Law,” *American Health Lawyers Association’s Hospitals & Health Systems Rx* newsletter, Volume 10, Issue 2 (June 2008)
- “Medicine, Law, and Business: Strange Bedfellows in the Pharmaceutical and Medical Device Industries,” *Criminal Litigation* (Vol. 7, No. 1, Fall 2007)
- “What is ‘Safe’ About the Government’s Recent Interpretation of the Anti-Kickback Statute Safe Harbors? . . . and Since When was Stark an Intent-Based Statute?,” *Journal of Health Law* (Fall 2003)

### Member

- American Bar Association, Health Law Section
- American Health Lawyers Association
- Health Care Compliance Association
- Los Angeles Bar Association, Health Law Section
- *Law360* Health Advisory Board

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### Lecturer

- American Bar Association
- Bloomberg BNA
- American Health Lawyers Association
- Health Care Compliance Association

### Speaker

- “World Recognition of Distinguished General Counsel,” Directors Roundtable (Feb 2014)

### Honors & Awards

- *Chambers USA* in Healthcare (2021)
- The *Legal 500 US* in both White Collar Criminal Defense (2015, 2019) and Healthcare: Health Insurers (2015-2021)
- *Nightingale's* “Outstanding Healthcare Fraud & Compliance Lawyers 2009”
- *Nightingale's* “Outstanding Young Healthcare Lawyers 2006”