

# Gerson, Van Demark: Article About FCPA Enforcement in the Healthcare Sector

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**Stuart Gerson** and **Dale Van Demark**, Members of the Firm, co-wrote an article, "The FCPA and the Healthcare Sector: Entering an Era of Heightened and Unprecedented Enforcement," published in *Westlaw Journal Pharmaceutical* and *Westlaw Journal Medical Devices*.

Following is an excerpt from the article:

Throwing down the gauntlet to health care providers and, most significantly, their executives, who increasingly are doing business overseas, Acting Deputy Attorney General Gary G. Grindler recently told the National Institute on Healthcare Fraud that: "In some foreign countries, nearly every aspect of the approval, manufacture, import, export, pricing, sale, and marketing of a drug product may involve a 'foreign official' within the meaning of the Foreign Corrupt Practice Act ... [The Department of Justice] will not hesitate to charge [healthcare] companies and their senior executives under the FCPA if warranted to root out foreign bribery in the industry." Grindler's words reiterate what has become increasingly obvious to those members of the health sector who have been tracking the Department of Justice's ("DOJ") and the Securities and Exchange Commission's ("SEC") movements over the last half decade. The government has brought more actions under the Foreign Corrupt Practices Act ("FCPA" or "Act") in the last five years than in the previous 28 years of the Act's existence. Last year, for the fifth year in a row, the number of FCPA enforcement actions brought by DOJ and the SEC increased and the trend of increased enforcement shows no signs of letting up. These agencies have taken a broad and

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expansive reading of the operative terms in the FCPA and both continue expand their enforcement theories, resulting in new prosecutions of both companies and individuals.