

## Health Group Of The Year: Akin Gump

By Jimmy Hoover



*Law360, Washington (January 28, 2015, 10:12 PM ET)* -- From beating back a Medicare rule change that would have cost hospitals millions to helping a nursing facility shake off a whistleblower's False Claims Act suit with novel legal strategies, Akin Gump Strauss Hauer & Feld LLP's health group delivered hospitals, health care systems and policy advocates another year of stellar legal results in 2014, earning the firm a spot among Law360's Health Groups of the Year for the fourth consecutive year.

The firm's Medicare litigation group — which practice head Jorge Lopez Jr. calls “unquestionably the best practice of its kind in the country” — kicked off the year with a groundbreaking victory against changes to the program's reimbursement policies, an area where chances of success are slim, Lopez says.

“We're really proud of what we've been able to build over the last decade or so,” Lopez told Law360.

Partner Christopher L. Keough says the Medicare practice in many ways has grown out of a “new reality” where clients demand expert specialization — something Akin Gump has delivered in droves.

The firm's expertise helped it win an April D.C. Circuit ruling that buried the Department of Health and Human Service's adjustment to Medicare calculations that would have cost hospitals millions of dollars in lost reimbursements, according to Keough.

On behalf of appellee Allina Health Services, an Akin Gump team led by Partner Stephanie A. Webster, along with Keough, J. Harold Richards and Hyland Hunt persuaded a three-judge panel that the adjustment was not merely a revision to an earlier agency policy, but a substantive change that required a notice-and-comment period. The panel thus affirmed a trial court's decision to ax the rule.

“It is very unusual for an agency rule to be overturned, because of the deferential standard of review courts give the agency,” Webster said.

A judgment like the one in *Allina v. Sebilus* is not the brainchild of one guru, but rather the culmination of “turbocharged” efforts from litigation teams, appellant practitioners and policy experts — in essence, “the strength of the firm,” Keough says.

Another of the firm's assets is False Claims Act expert Robert Salcido, who in March successfully warded

off a whistleblower's claims against a New Jersey nursing facility using novel legal strategies.

U.S. District Judge Cathy L. Waldor sided with Salcido's argument that a former employee could not bring the FCA suit against Riverview Post Acute Care Center for failing to provide bed alarms and other items to residents, since this did not alter the government's reimbursement rate.

While there are few lawyers who can successfully help their clients escape whistleblower suits once the federal government has stepped in, Keough says, "there are even fewer still that can talk about big cases for major players that they took to trial and won."

Akin Gump has 111 health care and life sciences attorneys across the firm and is said to tap lawyers in each of its 22 offices around the globe for the group. The firm's Dallas office has a team focusing specifically on health care transactions.

In May, Akin Gump expanded the health care group's footprint on Capitol Hill, adding to its ranks five partners from premerger Patton Boggs LLP to handle issues like Affordable Care Act implementation, federal health care program reimbursement, medical privacy compliance, U.S. Food and Drug Administration regulation, and other congressional inquiries.

Looking into the future, practice head Jorge Lopez said he would like to extend Akin Gump's regulatory practice to cover the U.S. Food and Drug Administration. The firm made headway on those plans in April when it added former FDA lawyer and U.S. Senate adviser Nathan A. Brown to head the new team.

For the Medicare professionals, though, there's no time quite like the present.

"We'd all be happy if at the end of the year if we can say we did exactly what we did this year," Keough said.

--Additional reporting by Brian Mahoney. Editing by Kat Laskowski.