



# Jennifer L. Wintergerst

## Partner

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### Location

500 West Jefferson Street  
Suite 2800  
Louisville, KY 40202

### Honors

Recognized by her peers as a  
Kentucky *Super Lawyers Rising  
Star*, 2013

### Education

1999 - J.D., *cum laude*,  
University of Louisville Brandeis  
School of Law

1995 - B.A. (English), *cum laude*,  
Indiana University, Phi Beta  
Kappa

### Admissions

Kentucky

Florida

U.S. District Court, Western  
District of Kentucky

U.S. District Court, Eastern  
District of Kentucky

U.S. District Court, Western  
District of Tennessee

U.S. District Court, Southern  
District of Indiana

Jennifer Wintergerst is a member of the Firm's Health Care Service Team and the Data Privacy and Security Service Team. She concentrates her practice in the areas of complex healthcare litigation, investigations and regulatory compliance. She assists clients with Medicare and Medicaid enrollment and termination issues, governmental audits and investigations and False Claims Act litigation. Ms. Wintergerst provides guidance to healthcare clients across the industry to enable them to comply with the Anti-Kickback Statute, the Stark law, HIPAA and various Medicare and Medicaid laws and regulations. She conducts internal investigations regarding potential overpayments and data security incidents and assists clients with the necessary reports to HHS OIG and OCR. She also routinely represents physicians, nurses and other licensed professionals with disciplinary actions before the professional regulatory boards and assists providers with HHS OIG exclusion and reinstatement.

### Representative Matters

- Representing clients in administrative hearings relating to overpayment demands.
- Representing clients in False Claims Act litigation.
- Advising clients and assisting in identifying potential overpayments and making the appropriate disclosures under the OIG Self Disclosure Protocol.
- Advising durable medical equipment (DME) suppliers on compliance with Medicare's DME standards and competitive bidding program rules.
- Advising clients on DOJ, OIG settlements and exclusion issues.
- Advising clients on internal investigations relating to Medicare and Medicaid overpayment issues.
- Advising clients on internal investigations and OCR reporting regarding data security incidents.
- Advising clients on negotiation and implementation of Corporate Integrity Agreements.
- Advising clients on government surveys, citations, investigations, subpoenas, warrants, and civil investigative demands.
- Assisting with Medicare enrollment and exclusion issues and advising on ownership and adverse action disclosure matters.
- Assisting with state pharmacy board licensure for manufacture and distribution of medical devices and home medical equipment.
- Reviewing arrangements between providers for compliance under the Stark Law and the Anti-Kickback Statute.
- Successfully argued for exclusion of RAC and SURS experts from testifying in administrative hearings, based upon violation of ethical rules inherent in vendor's contract with state Medicaid.
- Successfully argued that state Medicaid's use of extrapolation in post payment review is impermissible, resulting in partial summary judgment.
- Successfully represented a long term care pharmacy in False Claim Act qui tam litigation, resulting in dismissal of litigation against the client.
- Successfully advocated against government intervention against client, an academic medical practice, in qui tam litigation under the False Claims Act which ultimately resulted in dismissal of the action.
- Successfully prevented client from being terminated from Medicare for failure to make the appropriate disclosure.

### Professional Experience

- Assistant Attorney General - Frankfort, Kentucky. Medicaid Fraud and Abuse

Control Division, worked as part of an interdisciplinary team to investigate and prosecute allegations of provider fraud and patient abuse and neglect. Cross-designated as a Special Assistant United States Attorney to assist with the prosecution of federal health care fraud cases.

- Assistant State Attorney - Pensacola, Florida. Prosecuted felonies and misdemeanors and served as a member of the Child Protective Team and the Family Focused Female Initiative Court.

## Presentations

Ms. Wintergerst has presented numerous seminars regarding regulatory health care topics including:

- "Dont have a Heart Attack: What Every Practice Should Know about the Fraud and Abuse Laws and Government Investigations," American College of Cardiology Conference, Kentucky Chapter, October 13, 2018
- "Trends and Developments in Reimbursement and Overpayment Recovery," Kentucky Healthcare Financial Management Association's Summer Institute, July 2016
- "The Clock is Ticking: Next Steps After Discovering a Compliance Issue," Kentucky Hospital Association's 87th Annual Convention, May 13, 2016
- "Another Audit? Practical Advice for Dealing with Government Enforcement Actions and Other Program Integrity Initiatives," AAPC, April 21, 2016
- "Audits, Audits Everywhere...Practical Advice for Practices Dealing with Government Enforcement Actions and Program Integrity Initiatives," American College of Cardiology Annual Meeting for the Kentucky Chapter, September 26, 2015
- "Recent Trends in Government Enforcement Actions and Other Recovery Initiatives," AAPC, July 15, 2014
- "Cloudy with a Chance of Recovery: What's on the Radar with the FCA and the 60 Day Overpayment Rule," HFMA, July 2014
- "Every Second Counts: Practical Implications of the 60-Day Rule," Louisville Bar Association, June 2014
- "Recent Trends in FCA, RAC and Other Recovery Initiatives," Louisville Bar Association, June 2014
- "Recent Trends in Government Enforcement Actions and Program Integrity Efforts," AAPC, May 24, 2014
- "The Feds are Here: Now What? What Every Practitioner Needs to Know About Health Care Fraud," Mississippi Bar Association, May 16, 2014
- "The Enforcers...Does the term "Strike Force" really belong in healthcare? Government Enforcement Actions and Program Integrity Efforts," AAPC, January 9, 2014
- "CMS' Two Midnight Rule for Inpatient Admissions," Kentucky Hospital Association, October 22, 2013
- "Not If But When...Helping Providers Prepare for the Governmental Audit" Kentucky CPA Healthcare Conference, May 16, 2013
- "House Bill 1 Changes to the Controlled Substances Act Impose Onerous Requirements on Practitioners...Kasper: Not so Friendly Anymore," Professional Health Institute of America, July 17, 2012
- "The OIG has Exited...Who's Next? The Collateral Consequences of an IJ," Kentucky Association of Health Care Facilities, May 31, 2012
- "...and the Government Taketh Away: Recent Updates on Government Audits," Healthcare Financial Management Association, March 22, 2012
- "Life Under the Microscope: Recent Developments in Audits and Investigations," January 26, 2012
- "You Can't Hide from Their Prying Eyes: The Ins and Outs of Government Investigations," Kentucky Association of Health Care Facilities (KAHCF), November 16, 2011
- "Chicken Soup for the License: An Introduction to Dealing with Your Regulating Board," Association of Operating Room Nurses (AORN), October 4, 2011
- "Don't Fear the Auditor: A Practical Approach to Dealing with Program Integrity Initiatives," Greater Louisville Medical Society, April 14, 2011
- "RAC n' Roll: Surviving Increased Recovery Efforts in the Healthcare Reform Era," Professional Health Institute of America, February 15, 2011
- "Making the Shield a Sword: How an Intelligent, Proactive Approach to Audits and

Self-Reporting Can Protect a Medical Practice," Zirmed THRIVE conference, February 9, 2011

- "Like Pulling Teeth... The Ins and Outs of Dealing with Regulating Agencies: A Best Practices Approach," South Eastern Kentucky Dental Society, November 18, 2010

### **Publications**

- "New Supreme Court Decision Addressing Regulatory Notice and Comment." Wyatt, Tarrant and Combs, News. June 2019.
- "Tick Tock...Determining when an Overpayment is 'Identified' in Light of *Healthfirst*." Louisville Bar Association's *Bar Briefs*, November 2015
- "Termination for Claims? CMS Unveils New Computerized Technology Aimed at Targeting False Claims Prior to Payment." VALEO Magazine, December 2011

### **Professional Activities and Memberships**

- Louisville Bar Association, Chair of Health Law Section (2013), Vice Chair (2012)
- Kentucky Bar Association
- Florida Bar Association
- American Bar Association
- Healthcare Fellow, Health Enterprises Network
- American Health Lawyers Association

### **Civic Involvement**

- Green Hill Therapy, Board of Directors
- Bingham Fellows, Class of 2016, Topic - "Empowering Citizens to Live Healthier Lives"

### **Interests**

- Reading, cooking, shopping, and spending time with family