UNFAVORABLE

OIG WATCH

13-03

Private-pay lab turnkey model for physician practices

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What OIG Said

Even with FMV terms and a federal carve-out, a "low-risk profit opportunity" can still be viewed as remuneration tied to federal referrals.

- ⚠ OIG reviewed a proposal where a parent lab would form a management company to lease space, equipment, personnel, and lab management/support to physician groups so they could run their own physician-group labs for non-Federal patients only.

- ⚠ OIG emphasized that carving out Federal business is not dispositive; questionable private-pay economics can still disguise or induce Federal referrals.

- ⚠ Even if lease/management/license fees are fixed and FMV, OIG saw the arrangement as giving physicians a potentially lucrative, low-or-no-risk expansion into lab profits, which is "something of value" that can influence downstream federal ordering.

- ⚠ OIG could not rule out a nexus between private-pay lab profits and increased Federal specimen referrals (e.g., convenience, loyalty, or blurred operational lines), and flagged overutilization risk for all patients.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Show that any leasing/management/support model does not create a profit opportunity that depends on or is designed to influence Federal referrals.
- ✓ If using carve-outs, prove they are operationally real and independently managed—not just paper distinctions that still steer federal testing.
- ✓ Have comprehensive FMV support for every payment stream, but recognize FMV alone won't save a structure that creates referral-linked incentives.
- ✓ Document clinical and commercial rationale for any ancillary profit center tied to physician ordering behavior; diligence will test for inducement and utilization drift.

If your "private-pay only" side venture still creates value that can sway Federal ordering, this is the profile OIG said will draw fire

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Structure not diligence-ready?

Cabra Consulting helps healthcare organizations make sure compensation and transaction structures are independently valued, clearly scoped, and defensible in diligence.

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