FAVORABLE

OIG WATCH

21-06

Device pricing reduced when hospital takes over rep/distributor duties

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What OIG Said

OIG said this model is okay if the lower price reflects services no longer provided, not a hidden benefit to induce purchasing.

- ✓ A device manufacturer offered hospitals a lower price on spinal implants if the hospital took on logistics and training tasks usually done by a distributor or sales rep.
- ✓ OIG acknowledged this could look like remuneration, which raises Anti-Kickback concerns if the price cut is viewed as an inducement.
- ✓ But OIG accepted the price cut because it matched the value of services the manufacturer no longer had to pay for, making the structure commercially reasonable, not a kickback.
- ✓ Hospitals still had to perform all the rep duties internally, meaning they weren't getting a "free benefit," just paying only for what they used.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Show that your pricing difference equals the cost of the services removed, not a made-up “discount.”
- ✓ Document what services would have been included in the standard price and who now performs them.
- ✓ Prove the hospital is actually doing the work, not getting a lower price without real substitution.
- ✓ Keep a clean, written agreement outlining scope, roles, term, and fallback terms if performance fails.

If you’re offering price breaks, but can’t tie them to reduced service costs, it may read like paying for purchasing loyalty.

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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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