FAVORABLE

OIG WATCH

21-15

Retaining net profits from CRNA services under a billing reassignment employment model

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What OIG Said

OIG said this setup is OK if the CRNA is a bona fide employee, salary is fixed, and the employer takes on full billing and liability risk.

- ✓ A pain group employed a CRNA part-time, had the CRNA reassign billing rights, and retained net profits from anesthesia services, pending a favorable OIG opinion.
- ✓ OIG confirmed this does count as “remuneration” under Anti-Kickback, including both the salary and the opportunity to profit from CRNA services.
- ✓ OIG allowed it because the CRNA was a bona fide employee, paid a salary, and the employer took full billing, HR, and liability responsibility, making it fit the employment safe harbor.
- ✓ Importantly, OIG noted that the employer earning a profit from services under a billing reassignment isn’t automatically abusive if the structure is typical, clearly scoped, and not volume-tied.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Prove the CRNA is a bona fide employee under tax code definitions (e.g. W-2 status, employment agreement, HR records).
- ✓ Have a fixed salary agreement with no volume-based bonuses or collection-based compensation.
- ✓ Show that all billing, payment, and liability obligations are handled directly by the employer, not the CRNA.
- ✓ Keep a clean, written agreement outlining scope, roles, term, and fallback terms if performance fails. Keep documentation of employer duties: HR, insurance coverage, supervision (if required), and operational control.
- ✓ Confirm that profit retention stems from standard billing reassignment, not from any referral-based incentive.

If you can't prove employment status and commercial necessity, retaining profits from services you also refer could read like inducement.

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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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