UNFAVORABLE

OIG WATCH

22-14

Ophthalmology practice offering CE programs to referring optometrists

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What OIG Said

OIG blessed fair market value registration fees but rejected free or subsidized education as prohibited remuneration to referral sources.

- An ophthalmology practice wanted to offer CE programs to local optometrists who refer surgical patients to the practice, with four potential funding models.

- Arrangement A (FAVORABLE): Attendees pay fair market value registration fees covering program costs. OIG said this is low-risk because the referral sources pay FMV for the education they receive.

- Arrangements B, C, D (UNFAVORABLE): Free programs funded by the practice, or free/subsidized programs with industry sponsorships. OIG said these constitute prohibited remuneration because optometrists receive valuable education they'd otherwise pay for, which could induce them to refer patients.

- External faculty honoraria must be at fair market value and not tied to the volume or value of past or future business generated for the practice or industry sponsors.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Charge attendees fair market value registration fees that cover your actual program costs, not free admission, not heavily subsidized fees.
- ✓ Document that speaker/faculty honoraria are at fair market value and aren't determined based on referral volume, prescribing patterns, or business generated.
- ✓ Prove the program is genuinely educational (approved for CE credit, substantive content, appropriate venue) and not a social event disguised as education.
- ✓ Show the program is open to all qualified providers in your service area, not selectively offered only to high referrers or targeted based on past referral patterns.
- ✓ If you receive industry sponsorships that offset your costs, understand that OIG treats those funds as remuneration to you that could induce you to prescribe/order sponsor products.

If you're offering free or below-FMV education to referral sources and you can't prove they're paying fair market value, this is the profile OIG said creates kickback risk.

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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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