UNFAVORABLE

OIG WATCH

23-05

Physician-owned IONM JV contracting ops back to MSO + affiliated practice

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What OIG Said

OIG said this structure looked like paying for referrals, not for services, and failed to meet FMV or commercial necessity standards.

- OIG reviewed a proposed joint venture where surgeons would own a new IONM entity (Newco), but contract nearly all operations, clinical and administrative, back to their existing IONM vendor and its affiliated practice.

- OIG said Newco's profits, paid as distributions to the surgeon-owners, would constitute remuneration, especially since the underlying service contracts were discounted below what the MSO could otherwise charge.

- OIG flagged that the arrangement appeared designed to retain business by offering ownership as inducement, not based on FMV or operational need. They noted the MSO would make less profit under this structure, further signaling economic distortion.

- The structure resembled past "contractual joint venture" warnings: referring physicians owning an entity that exists largely to capture margin from their own referrals, without assuming real business risk or operational control.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Prove that ownership returns are not linked to the volume or value of referrals, and that any profit distributions reflect actual investment risk or operational contribution.
- ✓ Show that all service contracts (billing, staffing, neurophysiology, etc.) are priced at fair market value, not discounted to retain referrals, and are commercially necessary.
- ✓ Have third-party FMV opinions covering each stream: MSO billing/admin support, clinician lease, and any back-end profit splits.
- ✓ Demonstrate that physician-owners have real governance and operational responsibilities, not just passive ownership in a referral-fed entity.
- ✓ Avoid “dual channel” logic where federal patients are steered to the MSO while commercial cases go to the JV, OIG flagged this explicitly.

If you’re doing this and you can’t prove commercial need, FMV support, and independence from referral volume, 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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