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Tenn. Health System Settles FCA Case for \$7.25M Without CIA; OIG Pursues Far Fewer CIAs

By Nina Youngstrom

Methodist Le Bonheur Healthcare and Methodist Healthcare–Memphis Hospitals have paid \$7.25 million to settle false claims allegations stemming from sweetheart deals with West Clinic PLLC, the U.S. Attorney’s Office for the Middle District of Tennessee said Jan. 4.^[1] According to the allegations in the False Claims Act (FCA) complaint, Methodist bought the assets of West Clinic, leased its nonphysician employees and compensated physicians for their professional and management services without employing them, partly to induce their referrals.^[2] Methodist denied the allegations and didn’t admit liability in the settlement.^[3]

As was the case with other recent FCA settlements—including ChristianaCare Health Service’s \$47.1 million settlement^[4] and Exagen’s \$653,143 settlement^[5]—Methodist’s doesn’t include a corporate integrity agreement (CIA).

“Given Methodist’s views that the underlying arrangements had been structured appropriately and that its affiliation with West Clinic greatly improved cancer care in Memphis, Methodist declined to move forward with any settlement that would include a CIA,” said attorney Brian Roark, who represents Methodist.

For varying reasons, CIAs are far less common than they used to be while at the same time more tailored to the misconduct alleged in the FCA complaint. Sometimes health care organizations refuse to enter into CIAs, but often the HHS Office of Inspector General (OIG) doesn’t require them.

“OIG has over time narrowed the scope of the cases for which they’re seeking a CIA,” Gregory Demske, former chief counsel to the HHS Inspector General, tells RMC. Two decades ago, OIG pursued CIAs in every FCA settlement, but ultimately OIG decided this “was not the best use of its resources or the resources of entities it was settling with,” said Demske, with Goodwin Procter LLP in Washington, D.C.

In fact, last year, there was no CIA in 181 FCA settlements, he said, while a CIA popped up in 29. The numbers have been fairly consistent over the past few years. “It shows you there’s a fairly narrow slice of cases where OIG is pursuing a CIA,” Demske noted. “You can’t have a CIA in every case and have the capability to do as many enforcement actions as you’d like.”

In two 2023 FCA settlements where health care organizations refused CIAs, OIG assigned them to the “heightened scrutiny” category of its Fraud Risk Spectrum, which ranges from exclusion to no integrity obligations because of a self-disclosure.^[6] The two are (1) University of Pittsburgh Medical Center, University of Pittsburgh Physicians and James Luketich, M.D. and (2) Nostrum Laboratories Inc., and Nirmal Mulye, Ph.D. A total of seven are under heightened scrutiny.

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