

# HOW TO MANAGE **FMV/CR RISK** IN HEALTHCARE TRANSACTIONS

Mitigating the risk of a qui tam relator and addressing Stark Law and Anti-Kickback risks are top priorities for healthcare risk management systems. Many health systems do not understand how their systems and processes increase rather than reduce government enforcement and qui tam relator risk.

## 4 AREAS OF **FMV/CR ENTERPRISE RISK**



## 5 WAYS TO MANAGE **FMV/CR ENTERPRISE RISK**

- 1 SET THE TONE AT THE TOP**  
Establish and maintain a culture of compliance.
- 2 BE PREPARED FOR COMPLIANCE EMERGENCIES**  
Build a proactive defense against qui tam relator claims.
- 3 STRESS TEST**  
Evaluate processes and outcomes to find weaknesses and address them.
- 4 THOROUGHLY REVIEW EMPLOYEE CONCERNS**  
Many enforcement actions begin from within. Pay attention to the warning signs.
- 5 DON'T ACCEPT A COOKIE CUTTER APPROACH**  
Taking the easy route sometimes leads to trouble later. Better diligence and testing on the front-end can help minimize risks.

### THE HORNE | ANKURA | TRUSIAK PARTNERSHIP **VALUE PROPOSITION**

Identification of business and legal risks associated with FMV/CR compliance, anticipation of potential outcomes, and recommendation of process improvements to help clients mitigate those risks.

Three complementary lenses to view the situation – hospital inside experience, the technical expertise, and former government prosecutorial expertise – guidance to manage the high risks associated with FMV/CR transactions and arrangements.

### THE HORNE | ANKURA | TRUSIAK APPROACH

- Engagement under attorney-client privilege (Kovel letter)
- Focus on transactions, arrangements, and leases
- Identify weak points in the system
- Provide improvement plans using best practices
- Provide overall assessment report and action plan
- Work with legal counsel and internal audit team
- Use sampling and auditing techniques to assess risk

### USES FOR RISK ASSESSMENTS

- Addressing board concerns and oversight with review for board and compliance committees
- New c-suite members or compliance officers seeking an outside organizational assessment
- Due diligence in M&A to facilitate integration of compliance program components and cultures
- Improving compliance programs
- CIA oversight – assisting IROs
- Qui tam relator case defense

## SERVICE TEAM



**GREG ANDERSON**  
CPA/ABV, CVA  
HORNE LLP

Recognized thought leader in FMV matters with the experience of a CPA firm skilled in audit services



**TIMOTHY SMITH, CPA/ABV**  
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Former HCA ECO who developed HCA's FMV processes while under a CIA; recognized thought leader in FMV matters



**ROBERT TRUSIAK, ESQ.**  
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Former Assistant US Attorney with experience in prosecuting healthcare cases and corporate compliance officer with the know how to practically mitigate compliance risk for the health system.