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

1. DEAL RISK
   Pretransactional systems and processes have weaknesses in ensuring front-end FMV/CR compliance.

2. IMPLEMENTATION/ ADMINISTRATION RISK
   Deals are not operationalized consistent with expert opinions or internal approvals. Contracts are not administered as approved or according to the written terms or valuation opinions.

3. CIRCUMSTANTIAL RISK
   Facts and circumstances have changed since the deal was originally approved.

4. OUTCOMES RISK
   Arrangements result in “high-risk” outcomes or “red flags” based on current enforcement trends.

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.

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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.

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
• CA oversight – assisting IROs
• Qui tam relator case defense

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