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### In Biggest Stark-Based FCA Settlement Ever, Indiana Hospital Pays \$345M, Has Unusual CIA

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By Nina Youngstrom

Community Health Network (CHN) in Indiana has agreed to pay \$345 million to settle false claims allegations that it paid over-the-top salaries to hundreds of physicians and rewarded them for their referrals in violation of the Stark Law, the U.S. Department of Justice (DOJ) said Dec. 19.<sup>[1]</sup> The money flowed even though more than one valuation firm told CHN that some compensation was above fair-market value.

This is the largest False Claims Act (FCA) settlement in connection with alleged Stark violations ever, according to DOJ.<sup>[2]</sup>

The settlement includes a five-year corporate integrity agreement (CIA) that requires an independent review organization (IRO) to perform reviews of both fee-for-service claims and arrangements (e.g., for compliance with the Anti-Kickback Statute and Stark Law).<sup>[3]</sup> The HHS Office of Inspector General (OIG) also requires CHN to hire a “compliance expert” to review the effectiveness of its compliance program. The compliance expert’s reports must be reviewed by the board and submitted to OIG.

“Not only is the dollar amount significant, but the oversight OIG is imposing on Community Health is significant,” said attorney Bob Wade, with Nelson Mullins in Nashville, Tennessee. Typically, a CIA requires an IRO for claims or physician financial relationships, but not both, he explained. “And it’s extremely rare to see a compliance expert to the board,” Wade said. He can think of only one other case in the hospital False Claims Act (FCA) world: Halifax Hospital Medical Center’s \$85 million Stark-based settlement in 2014.<sup>[4]</sup>

CHN’s settlement was set in motion by a whistleblower, Thomas Fischer, who was its chief financial officer for eight years. Fischer’s second amended complaint was filed in 2020 and DOJ intervened and filed its complaint in intervention Jan. 6, 2020.<sup>[5]</sup>

“The big thing was that many of the physicians were [allegedly] paid above the 90th percentile,” said attorney Adam Robison, with King & Spalding in Houston. “According to DOJ’s complaint, in many instances they didn’t have fair-market value analyses to support that compensation.”

In a statement, Kris Kirschner, director of corporate communications for CHN, said, “The civil settlement resolves the government’s claims with no finding of wrongdoing. Community has always sought to compensate employed physicians based on evolving industry best practices with the advice of independent third parties. Physician compensation is a complex and highly regulated issue. What is important to remember is this matter involved alleged technical violations and is completely unrelated to the appropriateness and quality of care Community provided its patients.”

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