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DOJ Fraud Declination Highlights Self-Disclosure Tradeoffs

By **Heidi Manschreck and Scott Memmott** (September 1, 2026, 5:36 PM EDT)

The U.S. Department of Justice has formally declined to pursue criminal healthcare fraud charges against a healthcare organization, Campus Eye Management — a first under its recently announced departmentwide corporate enforcement policy.


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The policy, which encourages voluntary self-disclosure, cooperation and remediation, offers a potentially attractive option for healthcare companies navigating criminal exposure that must be weighed carefully against the potential costs of self-reporting. The Campus Eye Management case also illustrates the importance of due diligence related to potential healthcare fraud risk for outside investments in healthcare companies.

Background


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On March 10, the DOJ released its first ever departmentwide corporate enforcement policy for criminal matters, establishing uniform standards for voluntary corporate self-disclosure of misconduct — with the exception of antitrust matters, for which the Antitrust Division's long-standing leniency policy remains in effect.[1]

In what the DOJ has described as a carrot-and-stick model, the policy rewards companies that self-disclose misconduct with potential declination — meaning the company can avoid criminal charges entirely — while emphasizing individual accountability for corporate wrongdoing.[2]

New DOJ Terms

The policy has three core requirements: voluntary self-disclosure, full cooperation, and timely and appropriate remediation. Under the policy, and subject to the prosecuting office's discretion, certain aggravating circumstances, such as egregious or pervasive misconduct, severe harm, or recent similar criminal conduct may disqualify a company from receiving a full declination.

The DOJ's policy also covers so-called near miss scenarios, where a company's self-report does not fully meet core requirements or aggravating circumstances exist.

In these cases, the DOJ still may offer attractive incentives short of declination, including a nonprosecution agreement, waiver of the need for a compliance monitor, and fines reduced by 50% to 75% off the low end of U.S. sentencing guidelines.

Even with a declination under the policy, companies still are subject to disgorgement, forfeiture and restitution obligations, and all declinations are made public.

Campus Eye Declination

On July 29, the recently formed National Fraud Enforcement Division of the DOJ announced that Campus Eye Management, an eye care physician group practice in New Jersey, secured a formal declination letter from the DOJ.[3]

The DOJ's investigation revealed that the founder of a Campus Eye optometry practice and affiliated eye-surgery center submitted claims to Medicare and other insurers for duplicative and medically unnecessary diagnostic tests and paid unlawful kickbacks in exchange for referrals.

The diagnostic test results allegedly were rarely reviewed by providers. The kickbacks reportedly were concealed by the creation of sham consulting agreements that paid what were purported to be flat monthly fees but actually were based on a percentage of the practice's Medicare reimbursement for diagnostic tests performed on patients the provider consultants had referred in the previous year.[4]

The conduct allegedly lasted approximately eight years and had been ongoing for several years before private equity investors obtained ownership interests in Campus Eye through a managed services organization.

In issuing the declination, the DOJ cited the organization's "timely and voluntary self-disclosure of the misconduct," its "full and proactive cooperation" and commitment to future cooperation, and its "timely and appropriate remediation" efforts.[5] Campus Eye also agreed to disgorgement of $1 million to compensate victims.

While the organization avoided criminal charges, the practice founder, E. Bruce DiDonato, was indicted on seven counts related to alleged healthcare fraud and illegal kickbacks. The indictment alleges DiDonato, a licensed optometrist, conspired to charge Medicare for fraudulent, unnecessary diagnostic eye tests often induced by kickbacks, resulting in approximately $1 million in excess Medicare payments.[6]

Implications

Campus Eye's declination under the new DOJ policy offers key lessons for healthcare organizations and their investors.

First, if true, the alleged conduct of Campus Eye's founder created significant criminal exposure for the organization to healthcare fraud and illegal kickback violations. But whether particular conduct rises to the level of a criminal violation — and whether a healthcare organization is likely to be held accountable for such conduct — are highly fact-specific questions that should be assessed carefully before considering self-disclosure.

Second, when healthcare organizations do have criminal exposure, the DOJ's uniform policy is intended to provide clarity, consistency and predictability across the department, with incentives to self-disclose, cooperate and remediate to avoid prosecution.

To take advantage of the carrots the policy offers, up to and including declination, healthcare organizations should ensure that their compliance programs are built to support early detection of misconduct, prompt internal investigations, and streamlined analysis and engagement with decision-makers.

Third, the DOJ's continued focus on individual accountability means that healthcare organizations should expect that culpable participants in misconduct, particularly high-level decision-makers, will be targeted for prosecution. Declination for the organization does not shield responsible executives from criminal charges, as shown by the indictment of Campus Eye's founder.

Campus Eye's commitment to cooperate with the DOJ's investigation, including its investigation of potentially responsible individuals, was among the factors the DOJ cited in granting the declination.

Fourth, as outside investors increasingly seek equity interests in healthcare organizations, whether through management services organizations or otherwise, Campus Eye illustrates the need to assess healthcare fraud risk as part of investors' due diligence.

Depending on the circumstances, that may include analysis of the organization's healthcare claims data, targeted discussions with key personnel and review of the organization's finances.

Notably, the DOJ's M&A policy continues to provide for presumptive declination for acquiring companies that report misconduct within six months of acquisition and remediate within one year.[7]

Fifth, while the DOJ's policy offers significant incentives for healthcare organizations with criminal exposure to self-report misconduct, those incentives must be carefully weighed against the potential costs, including reputational risk from public declinations, exposure under the False Claims Act when the misconduct involves government-payor programs, and potential shareholder class actions against public companies. Ultimately, these factors may weigh heavily against self-disclosure.

Conclusion

The DOJ's departmentwide corporate enforcement policy is designed to reward companies that self-report and cooperate, while emphasizing individual accountability through criminal charges against culpable executives.

The Campus Eye case illustrates the potential benefits — and accompanying costs — of self-disclosure under the new policy, while also underscoring the importance of assessing healthcare fraud risk when conducting due diligence involving healthcare organizations and investor-owned management services organizations.

Deciding whether to self-disclose misconduct under the policy requires a careful assessment of a healthcare organization's criminal exposure. Robust compliance programs and due diligence targeted at healthcare fraud risk may help healthcare organizations to identify and remediate potential misconduct early, regardless of whether they ultimately choose to report misconduct to the DOJ.

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[1] https://www.morganlewis.com/pubs/2026/03/doj-issues-unified-corporate-enforcement-policy.

[2] https://www.justice.gov/atr/leniency-policy.

[3] https://www.morganlewis.com/pubs/2026/01/white-house-announces-new-doj-division-for-national-fraud-enforcement.

[4] https://www.justice.gov/opa/pr/fraud-division-resolves-fraud-investigation-eye-care-group-under-new-corporate-enforcement.

[5] https://www.justice.gov/d9/2026-07/2026.7.29_campus_eye_declination_ltr_signed.pdf.

[6] https://www.morganlewis.com/-/media/files/document/2026/us-district-court-district-of-new-jersey-didonato.pdf.

[7] https://www.justice.gov/jm/jm-9-28000-principles-federal-prosecution-business-organizations#9-28.900.