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Insights

FALSE CLAIMS ACT: RECENT UPDATES

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The False Claims Act developments you need to know about in **5 minutes or less**.

PRIVATE EQUITY REMAINS IN FOCUS

Regulators and lawmakers continue to intensify scrutiny of private equity ("PE") ownership of healthcare providers and government contractors at both the federal and state levels.

On October 24, 2025, HHS-OIG issued a report reiterating concerns about PE ownership of nursing homes. The report recommended that CMS collect additional ownership information to better hold owners accountable for quality-of-care failures, noting that PE ownership may contribute to poor performance. Prior HHS-OIG guidance from 2023 and 2024 similarly flagged PE ownership as a risk factor for compromised care.

States are also reshaping the legal landscape. In October 2025, California enacted Senate Bill 351 and Assembly Bill 1415, codifying and strengthening corporate practice of medicine restrictions on PE firms, hedge funds and other non-licensed entities. Earlier this year, Massachusetts enacted H.5159, which imposes notice and reporting requirements on PE investments in healthcare and extends liability under the Commonwealth's FCA statute to PE owners of healthcare providers.

Federal enforcement activity has moved in step with these policy signals. On July 31, 2025, DOJ announced a $1.75 million FCA settlement involving a PE firm and its defense-contractor portfolio company. Notably, DOJ alleged direct wrongdoing by the PE firm, rather than mere liability for ratifying the portfolio company's actions, underscoring the risks for PE sponsors in being directly involved in administering government contracts. By contrast, on October 15, 2025, a federal court dismissed a PE firm from an FCA retaliation suit, concluding it was not the plaintiff's employer under 31 U.S.C. § 3730(h) and emphasizing the firm's separate governance and operations from its portfolio company. *See Panowicz v. Charter Health Holdings, Inc.*, No. 8:23-cv-000483, Dkt. No. 65 (D. Neb. Oct. 15, 2025).

Given this trajectory, PE sponsors should anticipate sustained government and regulatory attention. They can mitigate exposure by conducting rigorous compliance diligence during acquisitions, maintaining clear separation between investment oversight and day-to-day

operational control, and actively monitoring portfolio companies for adherence to federal and state requirements.

NEW AUDIT SWEEP OF SKILLED NURSING FACILITIES

On November 14, 2025, HHS-OIG released an audit report finding that nearly all skilled nursing services billed by a New York skilled nursing facility ("SNF") allegedly failed to meet Medicare payment requirements. The review focused on claims submitted under the Patient Driven Payment Model ("PDPM"), which CMS implemented in October 2019 to determine Medicare Part A payments for SNFs. According to the report, these alleged errors occurred due to inaccurate coding, lack of medical necessity verification, and noncompliant documentation practices. HHS-OIG recommended that the SNF refund $31.2 million to Medicare, conduct further audits, and improve staff training.

HHS-OIG also announced in the report that this audit is the first in a series of audits of SNFs that billed for skilled nursing services under the PDPM. The report follows prior HHS-OIG audits finding that SNFs are susceptible to noncompliance with Medicare requirements. This new effort signals a heightened enforcement risk for SNFs operating under the PDPM. Providers should review their coding practices, documentation protocols, and staff training programs to mitigate the risk of noncompliance and potential exposure to FCA liability. In particular, SNFs should consider the compliance program guidance for SNFs issued by HHS-OIG in November 2024.

TREASURY AUDIT OF PREFERENCE-BASED SBA CONTRACT AWARDS

On November 6, 2025, the U.S. Department of the Treasury announced a sweeping audit of the approximately $9 billion in preference-based contracts awarded by the agency and its bureaus. The audit targets potential misuse of programs like the Small Business Administration's 8(a) Business Development Program, citing concerns that large firms exploited pass-through arrangements under the prior administration's equity-in-procurement initiative. Treasury noted this review follows the SBA's earlier suspension and termination of $253 million in contracts awarded to a Maryland company. SBA alleged that the company used its minority-owned status to secure no-bid contracts while performing only a small portion of the work, outsourcing the remainder to subcontractors. Treasury will now require detailed staffing plans and monthly workforce performance reports for all service contracts. This action follows the SBA's June 2025 decision to launch a full-scale audit of the 8(a) program, after DOJ obtained several guilty pleas in connection with a fraud and bribery scheme that steered over $550 million in contracts.

This article was written with Law Clerk Celeste Charlet

As always, the BCLP team will be closely monitoring developments in this space and is available to provide guidance.

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