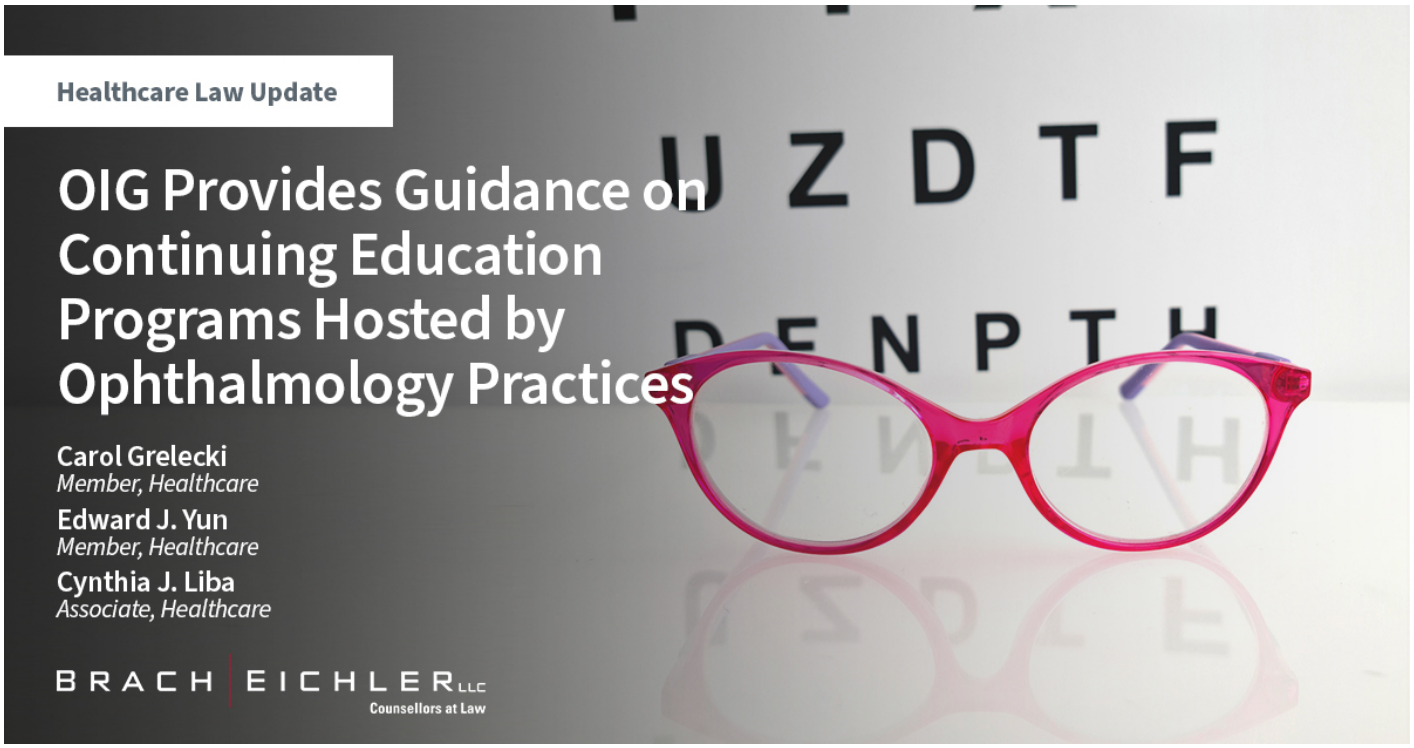
OIG Provides Guidance on Continuing Education Programs Hosted by Ophthalmology Practices



Updated 12/22/2022

On June 29, 2022, the Department of Health and Human Services, Office of Inspector General (OIG) issued Advisory Opinion 22-14 regarding four proposed arrangements where an ophthalmology practice would provide free or subsidized continuing education (CE) programs to local optometrists, including optometrists who are in a position to refer patients to the practice.

Under Arrangement A, the ophthalmology practice would charge attendees a fair market value (FMV) registration fee to attend the CE programs. Under Arrangement B, the ophthalmology practice would not charge attendees to attend the CE programs and, instead, cover the entire cost of the CE programs. Under Arrangement C, the ophthalmology practice would not charge attendees to attend CE programs but would instead solicit funding from industry sponsors such as medical device or pharmaceutical companies. Lastly, under Arrangement D, the ophthalmology practice would charge attendees a registration fee to attend the CE programs but subsidize a portion of the programs using funding from industry sponsors.

The OIG determined that Arrangement A presented low risk under the federal Anti-Kickback Statute (AKS) because attendees would be paying a registration fee consistent with FMV and sponsors would not be providing any funding for the CE programs. The OIG determined that Arrangements B and C presented a high risk under the AKS because the attendees would be able to attend the CE programs for free, and because providing free goods or services to referral sources is problematic under the AKS. Moreover, Arrangement C posed a heightened risk under the AKS because the sponsors' subsidies could induce optometrist attendees to order the sponsors' products. Similarly, the OIG determined that Arrangement D presented a high risk under the AKS because the sponsors' subsidies could induce the ophthalmology practice to order the sponsors' products.

Click here to read the entire October 2022 Healthcare Law Update

Click here to read the entire December 2022 Healthcare Law Update Year in Review

For more information, contact:
Carol Grelecki | 973.403.3140 | cgrelecki@bracheichler.com
Edward J. Yun | 973.364.5229 | eyun@bracheichler.com
Sally Olson | 973.403.3102 | solson@bracheichler.com