

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: Take A Gook Look At Your Doctors' Investments In Device Makers

OIG has a bee in its bonnet about doctors investng in devices

Like the tycoon in the old **Remington** shave commercials, your doctor may like a medical gadget so much that he buys the company that makes it. But in that case, you could be buying into a whole world of legal woe, experts warn.

The **HHS Office of Inspector General** (OIG) rushed to respond Oct. 6 to a letter from trade association **AdvaMed** asking for guidance about doctors investing in joint ventures involving medical devices. The OIG has been seeing a lot of doctors investing in medical device makers and distributors, including group purchasing organizations (GPOs), and the watchdog is growling.

The OIG's landmark 1989 Special Fraud Alert on Joint Ventures, a touchstone of physician compliance, applies to these ventures, the agency warned.

-It is an important reminder that the device industry is subject to the same fraud and abuse guidance that applies to other health care industries,- says attorney **Kathleen McDermott** with **Blank Rome** in Washington, DC.

Hot button: Your doctor can't receive more money for sending more patients to the company he has invested in, the OIG warns.

-There's been a lot of discussion about joint venture transactions, and the OIG just wanted to remind folks that there is guidance out there,- says Portland, OR attorney **Mark Bonanno**. A good guide is: Doctors should never profit from the - volume or value- of their patient referrals, says Bonanno.

-There has been, in fact, a proliferation of arrangements that raise serious questions about anti-kickback compliance,- says McDermott. These include physicians investing in GPOs as well as imaging centers. -Physicians in some sectors have been very entrepreneurial, which is not necessarily wrong.-

The OIG seems to be especially concerned when -the physician is in a position to either purchase the device or influence the purchase of the device,- says AdvaMed Counsel **Chris White**. The OIG guidance seems to apply most of all to common arrangements in the orthopedic and cardiology specialties, with doctors investing in implantable spinal rods and other devices.