

---

## OIG Issues New Special Fraud Alert on Speaker Programs

*Legal Alert*

---

November 18, 2020

**Steve Greenberg, Alan Zuckerman**

On November 16<sup>th</sup>, the Office of the Inspector General (OIG) issued a new Special Fraud Alert warning against participation in some so-called Speaker Programs, either by accepting remuneration for speaking at these programs or even for attending them under some circumstances, such as where they are held at expensive restaurants or other entertainment-type venues. The official Special Fraud Alert can be found [here](#).

Although the Alert acknowledges that there is significantly less in-person speaking activity taking place during the pandemic, it's important to keep in mind that Special Fraud Alerts signify that the OIG is giving special scrutiny to the subject matter, and thus, those in the healthcare industry should take note.

In the Alert the OIG does not say that such programs and events are *per se* illegal, which they are not, but that the lawfulness depends on the facts and circumstances and the intent of the parties. The OIG does say that such events have inherent fraud and abuse risks, and are and will be subject to scrutiny. Some of the factors noted in the Alert as problematic include the following:

- Little or no substantive information is presented
- Alcohol is available (especially if it is free) or the meal provided exceeds modest value
- The attendee has attended more than one program on the same or substantially similar topics
- The speaker is paid more than fair market value
- Attendees include persons who do not have a legitimate business reason to attend, including for example, family members or staff employees
- There has been a significant period of time with no new medical or scientific information for the product

Many physicians are already obligated to disclose to their employers any outside activities such as speaking engagements that come with honoraria. Physician practices and other employers should be made aware if any of their physicians are participating in Speaker Programs and if so, whether he or she is exposing himself, herself, or the practice, to sanctions by the OIG.

### **What should you do now?**

This is a good time for all healthcare practices to remind their physicians of the risks of participating in Speaker Programs and to send them a copy of the OIG's new Special Fraud Alert so they are aware of at least the badges of concern raised by the OIG.

*Continued*

---

*Should you have any questions regarding the New Special Fraud Alert, or have the need to discuss other issues impacting your practice, please contact Steve Greenberg, Alan Zuckerman, or any member of Flaster Greenbergs Healthcare Practice Group.*

**ATTORNEYS MENTIONED**

Stephen Greenberg

Alan Zuckerman