

What is the OIG Exclusion List, and How Could It Affect Your Practice?

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This list is known as the "List of Excluded Individuals/Entities" (LEIE) and it is a **big deal** for the healthcare providers who unfortunately find themselves on it. Inclusion on the list seriously prohibits a provider's ability to treat patients, as well as their ability to obtain employment opportunities.

For what actions or events will a healthcare provider find themselves on the OIG Exclusion List?

Permissive Exclusions: The OIG has **discretionary** authority to exclude individuals and entities, and place them on the list, for the following reasons:

- Misdemeanor convictions related to fraud or the obstruction of an investigation or audit.
- Misdemeanor convictions related to the unlawful manufacture, distribution, prescription, or dispensing of controlled substances.
- The suspension, revocation, or surrender of a license to provide healthcare for reasons bearing on professional competence or financial integrity.
- A provider's exclusion or suspension under federal or state healthcare programs.
- The submission of false or fraudulent claims to a Federal healthcare program by the provider.
- A provider's default on health education loans or scholarship obligations.
- A provider's role in controlling a sanctioned entity as a manager, officer or owner.

Mandatory Exclusions: The OIG is **required** by law to exclude individuals and entities for the following reasons:

- Conviction of Medicare or Medicaid fraud.
- Patient abuse or neglect.

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- Felony convictions for other healthcare-related fraud, theft, or other financial misconduct.
- Felony convictions relating to unlawful manufacture, distribution, prescription, or dispensing of controlled substances.

For a complete list, and more details about **permissive** and **mandatory** exclusions, see 42 U.S.C.A. § 1320a-7. For more information about the OIG Exclusion list, visit the Office of Inspector General's website.

Bottom line: For physicians, nurse practitioners, and other healthcare providers facing disciplinary actions by their state medical or nursing board, or those healthcare providers facing potential criminal charges, it is important to know that licensure discipline and criminal charges, among other things, could land a provider on the OIG Exclusion list, and lead to an even steeper uphill battle back to the practice of medicine or nursing.

For employers, it is important to know that an entity can face severe penalties for attempts to recover payment from the federal government for patient care performed by an individual on the OIG Exclusion List. It is recommended that employers check the Exclusions Database prior to hiring new healthcare providers to determine if potential hires fall on this list to avoid potential liability for the organization, and implement a process for regularly checking the OIG Exclusion List to ensure current employees have not been added to it. Frost Brown Todd has the relationships and resources to assist clients in implementing routine reviews of the OIG Exclusion List to ensure our clients' facilities are compliant.

If a provider is currently on the OIG exclusion list, he or she can apply for reinstatement to participate in federal health programs once the specified period of exclusion ends. To apply for reinstatement, follow the instructions found here.

I and others in the FBT health law practice group have assisted providers in applying for reinstatement following exclusion, and more importantly, are equipped to assist clients in understanding the OIG Exclusions List, and how to implement best practices to

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ensure compliance for your practice. If you require further assistance regarding compliance with the OIG Exclusions List, please do not hesitate to contact Alex Fisher at afisher@fbtlaw.com .

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