DOJ Announces First Healthcare Fraud Declination Under the New Department-Wide Corporate Enforcement Policy

Key Lessons from the Campus Eye Management Resolution for Companies Across All Industries

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Key Takeaways

- The Department of Justice declined to prosecute a healthcare company that voluntarily disclosed misconduct, cooperated with investigators, fixed compliance issues and agreed to repay affected parties. This is the first healthcare fraud declination under DOJ's new Corporate Enforcement Policy and shows the agency is willing to reward companies that come forward when problems are discovered.
- For companies facing potential misconduct, this provides a real-world example that self-disclosure can lead to significantly better outcomes, even in cases involving serious wrongdoing. DOJ is signaling that organizations that act quickly and transparently may avoid criminal charges.
- Companies should review their compliance and investigation protocols now, before issues arise. Leadership should ensure there is a clear plan for evaluating potential misconduct, conducting internal investigations and making timely disclosure decisions when appropriate.

Executive Summary

On July 29, 2026, the Department of Justice announced its first declination of a healthcare company under the new department-wide Corporate Enforcement Policy (CEP). The resolution of the Campus Eye Management investigation offers critical guidance for companies evaluating voluntary self-disclosure and demonstrates the tangible benefits, as well as accompanying obligations, of the CEP framework.

The Corporate Enforcement Policy

Earlier this year on March 10, 2026, Acting Attorney General Todd Blanche announced the department-wide Corporate Enforcement Policy (CEP). The policy provides concrete incentives for companies who voluntarily disclose discovered misconduct, cooperate with investigations, and remediate wrongdoing in a timely and appropriate manner. It supersedes all component-specific or U.S. Attorney's Office-specific corporate enforcement policies currently in effect, with the sole exception of the Antitrust Division's leniency program. The CEP was modeled closely on the Criminal Division's prior corporate enforcement policy (most recently revised in May 2025) and extends those principles across the entire Department of Justice.

Key features of the CEP include:

- **Declination as the Default Outcome:** For companies that voluntarily self-disclose, fully cooperate, and timely remediate-absent certain limited aggravating circumstances-DOJ will decline to prosecute the company.
- **Aggravating Circumstances:** These include the nature and seriousness of the offense, the egregiousness or pervasiveness of the misconduct within the company, and the severity of harm caused. Even where aggravating circumstances exist, prosecutors retain discretion to recommend a declination based on a holistic weighing of all factors.
- **Intermediate Benefits:** For self-reports that do not fully qualify as voluntary self-disclosures but are made in good faith with full cooperation and remediation (and no aggravating circumstances), companies may receive a non-prosecution agreement (NPA) of fewer than three years, no compliance monitor and a fine reduction of at least 50% but not more than 75%.
- **120-Day Whistleblower Exception:** If a whistleblower files both an internal report with a company and a submission to DOJ, the company can still qualify for a declination if it self-reports as soon as reasonably practicable, and in no event later than 120 days after receiving the whistleblower's internal report.
- **Public Transparency:** All declinations under the CEP will be made public, providing transparency and establishing precedent for future self-disclosures.

The Campus Eye Investigation and Underlying Misconduct

The misconduct centered on diagnostic testing and kickback schemes orchestrated by Campus Eye's founder and CEO, Bruce DiDonato. The schemes involved:

- Billing Medicare for unnecessary diagnostic eye tests performed on patients referred by ophthalmologists;
- Paying kickbacks and bribes to ophthalmologists in exchange for patient referrals for eye surgeries;
- Subjecting referred patients to diagnostic tests that were duplicative of prior tests or unnecessary for the surgery being performed;
- Concealing kickback payments through sham consulting agreements that described the payments as "consulting fees"; and

- Structuring payments as monthly "flat fees" that were actually calculated based on a percentage of the practice's Medicare reimbursement for diagnostic tests performed on referred patients in the prior year.

Neither DiDonato nor the optometrist reviewed the diagnostic tests, and in most instances, the referring ophthalmologists did not review or rely on the tests to inform their treatment decisions prior to surgery. The scheme resulted in approximately $3.4 million in fraudulent claims submitted to Medicare, of which Medicare paid approximately $1 million.

The DiDonato Indictment: Individual Accountability

Separately, DOJ announced a seven-count indictment against Bruce DiDonato, 71, of Princeton, New Jersey, the founder of the optometry practice and ASC who became Campus Eye's CEO upon its formation in December 2021. The charges include: one count of conspiracy to commit healthcare fraud (maximum 10 years); one count of conspiracy to violate the Anti-Kickback Statute (maximum 5 years); two counts of healthcare fraud (maximum 10 years each); and three counts of payment of illegal healthcare kickbacks (maximum 10 years each).

The DiDonato indictment is significant. It demonstrates that the CEP's declination framework does not shield culpable individuals. The company received a declination precisely because it cooperated and disclosed the misconduct; the individual who orchestrated the fraud faces the full weight of criminal prosecution.

This outcome reinforces DOJ's long-standing message: individual accountability remains a central pillar of corporate enforcement, and the CEP's incentives are designed to facilitate, not impede, the prosecution of responsible individuals.

Key Factors in the Declination Decision

The Department resolved its investigation into Campus Eye after considering the factors set forth in the CEP. The four factors that DOJ identified as supporting the declination were:

- **Timely and Voluntary Self-Disclosure:** Campus Eye voluntarily disclosed the misconduct to DOJ in a timely manner, before DOJ independently discovered it through other investigative means.
- **Full and Proactive Cooperation:** Campus Eye fully and proactively cooperated with the Department's investigation and agreed to continue cooperating with any ongoing government investigations.
- **Timely and Appropriate Remediation:** Campus Eye undertook timely and appropriate steps to remediate the wrongdoing and strengthen its compliance infrastructure.
- **Victim Compensation:** Campus Eye agreed to pay $1 million in restitution to compensate victims of the fraud.

Notably, the declination was granted notwithstanding the serious nature of the underlying conduct and the indictment of the company's founder. This suggests that DOJ is willing to extend meaningful benefits even in cases involving significant misconduct, provided the company satisfies the CEP's requirements.

Key Insights and Practical Implications

The Campus Eye resolution provides important lessons for companies across all industries, particularly for healthcare organizations, their investors and their boards of directors.

1. The CEP Framework Works-And Applies to Healthcare Fraud

This is the first healthcare fraud declination under the new department-wide CEP. Companies that timely self-disclose misconduct, fully cooperate with DOJ and strengthen their compliance programs now have a demonstrated pathway to a declination-even where the underlying individual misconduct is substantial. In 2025, 84% of total recoveries under the False Claims Act came from the healthcare and life sciences sectors, amounting to more than $5.7 billion. This resolution signals that DOJ is actively incentivizing self-policing in the industry most frequently targeted for fraud enforcement.

2. Speed Is the Most Critical Variable

A company that deliberates too long loses the ability to self-disclose before DOJ learns of the misconduct through whistleblowers, qui tam relators or other investigative channels. The 120-day whistleblower exception provides a narrow window, but companies should not treat it as a comfortable buffer. Internal investigations should be initiated promptly upon identification of potential misconduct, and the disclosure calculus should be evaluated continuously as facts develop.

3. Individual Accountability Is Not Optional

The Campus Eye declination and the DiDonato indictment were announced together. This pairing sends an unmistakable message: the CEP incentivizes companies to cooperate in part so that DOJ can more effectively prosecute culpable individuals. Companies considering self-disclosure should understand that cooperation will include providing evidence against individuals, including senior executives and founders.

4. M&A Due Diligence Must Include Compliance Risk Assessment

Campus Eye was formed in December 2021 when DiDonato and outside investors created the MSO. The misconduct preceded and continued after the entity's formation. This underscores the importance of rigorous compliance due diligence when acquiring or investing in healthcare organizations, particularly investor-owned management services organizations. Acquirers who discover pre-existing misconduct during or after a transaction should evaluate disclosure obligations under the CEP framework.

5. Compliance Programs Must Be Functional, Not Aspirational

Companies should ensure their compliance programs are capable of: identifying potential issues in real time through effective monitoring and internal controls; maintaining effective internal reporting mechanisms that encourage employees and stakeholders to raise concerns; conducting credible internal investigations promptly after misconduct allegations surface; supporting candid, privileged discussions with counsel about the self-disclosure calculus; and documenting remediation steps contemporaneously to demonstrate timeliness to DOJ.

6. The Benefits Come with Costs

While Campus Eye avoided prosecution, it agreed to pay $1 million in restitution and bears the costs of its internal investigation, remediation and ongoing cooperation obligations. Companies should approach self-disclosure with a clear-eyed assessment of both the benefits (declination, avoidance of a guilty plea, no monitor) and the costs (restitution, investigation expenses, management distraction, potential civil exposure, reputational impact).

Conclusion

The Campus Eye resolution is a significant development in the corporate enforcement landscape. It demonstrates that the new department-wide CEP is not merely aspirational-DOJ is prepared to deliver on its promise of declinations for companies that do the right thing. At the same time, the parallel indictment of Bruce DiDonato ensures that individual wrongdoers face accountability.

For healthcare companies and organizations across all industries, the message is clear: invest in compliance infrastructure capable of early detection, be prepared to move quickly when issues arise and understand that voluntary self-disclosure-while not without costs-offers the most favorable path when serious misconduct is discovered.

The Benesch Healthcare team will continue to monitor developments related to the Corporate Enforcement Policy and resulting healthcare fraud enforcements and may provide additional updates as they become available. Please contact the authors with any questions or of this article for additional information or if you have any questions.

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