

# DOJ's Civil Rights Fraud Initiative: Key Considerations for Health Care Providers

**Health Care Law Brief** on **May 29, 2025**

The Department of Justice's ("DOJ") May 19, 2025 "Civil Rights Fraud Initiative" [memorandum](#), issued by Deputy Attorney General Todd Blanche (the "Initiative"), marks a consequential policy shift for False Claims Act ("FCA") enforcement. The Initiative instructs every U.S. Attorney's Office to "aggressively pursue" compliance with federal civil rights laws, as those laws have been interpreted by the Supreme Court under the 2023 [Harvard admissions decision](#). The effect of this order is to treat a recipient's knowing violation of federal civil rights laws as a "false claim" whenever that recipient has certified, impliedly or expressly, that it would comply with those laws as a condition of receiving federal dollars.

Building upon the Trump administration's [Executive Order 14173](#), *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, 90 Fed. Reg. 8633 (Jan. 21, 2025) ("EO 14173"), under the Initiative, prohibited diversity, equity and inclusion ("DEI") programs will be treated like financial fraud — they will be investigated and, where warranted, litigated under the FCA's treble-damages regime. The Initiative also "strongly encourages" *qui tam* filings, inviting private whistleblowers to report suspected violations to the DOJ.

Although the Initiative specifically takes aim at colleges and universities, health care providers (both academic and non-academic) should take stock of its potential implications.

Before the Initiative was issued, the U.S. Department of Health and Human Services ("HHS") Office for Civil Rights ("OCR") [began enforcement](#) of EO 14173 by initiating investigations into medical schools and hospitals that receive HHS funding to determine whether such organizations "may operate medical education, training, or scholarship programs for current or prospective workforce members that discriminate on the basis of race, color, national origin, or sex."<sup>1</sup>

Importantly, HHS's National Institutes of Health ("NIH") is the largest public funding source for biomedical research in the world.<sup>2</sup> On April 21, 2025, NIH issued [NOT-OD-25-090](#), which modified the terms and conditions for all NIH grants, cooperative agreements, and other transaction awards to incorporate EO 14173's prohibition on DEI programs. As we noted in a recent [blog post](#), when a federal funding recipient signs a grant agreement or accepts reimbursement through a federal benefits program, the recipient is required to "self-certify" compliance with federal civil rights laws. The Initiative explicitly characterizes such certifications as "claims for payment" under the FCA. If the recipient knows or acts in deliberate ignorance or reckless disregard of the truth or falsity of its certification, the DOJ will assert that the claim is "false."

While all recipients of federal grant funds face some risk, the Initiative's potential impact may be especially acute for community-based behavioral health care providers and other organizations that rely heavily on grants from the Substance Abuse and Mental Health Services Administration ("SAMHSA"). SAMHSA primarily supports these services through block grants awarded to States, which are then distributed through localities and non-profits.<sup>3</sup>

Moreover, the Initiative, like EO 14171, applies to "federal contractors" and "recipients of federal funds." But it does not clarify whether it is intended to capture every provider that submits a claim for reimbursement from Medicare or Medicaid programs. In practice, each time a health care provider submits a claim for reimbursement to the Centers for Medicare & Medicaid Services, or a health plan, payor or contractor, they are required, much like recipients of federal grant awards, to certify compliance with all applicable federal laws, including, arguably, federal civil rights laws within the scope of the Initiative and EO 14171. As a result, Medicare and Medicaid providers receive no safe harbor; on the contrary, the sheer scale of the Medicare and Medicaid programs may make them targets for future enforcement.

Deputy Attorney General Blanche's memorandum cements civil rights compliance as a core dimension of FCA liability and ensures that federal dollars will be conditioned not only on accurate financial claims, but also on the active fulfillment of anti-DEI mandates. Proskauer's [Health Care Group](#) has significant experience at the intersection of the health care and FCA compliance and stands ready to assist stakeholders who are navigating the evolving regulatory landscape.

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1. OCR clarified that its interpretation of EO 14173 encompassed “not only to student admissions at HHS-funded institutions but also to academic and campus life, including the operations of university hospitals and clinics.” See U.S. Department of Health and Human Services, *HHS’ Civil Rights Office Clarifies Race-Based Prohibitions for Medical Schools to Advance Values of Initiative, Hard Work, and Excellence* (May 6, 2025), <https://www.hhs.gov/press-room/guidance-med-schools-dear-colleague-letter.html>. ↵
2. See National Institutes of Health, *Grants & Funding*, <https://www.nih.gov/grants-funding>. See also, Patrick Boyle, *What’s At Stake When Clinical Trials Research Gets Cut*, Association of American Medical Colleges (April 24, 2025), [https://www.aamc.org/news/whats-stake-when-clinical-trials-research-gets-cut#:~:text=The%20NIH%20is%20the%20largest,on%20academic%20medical%20campuses."\)](https://www.aamc.org/news/whats-stake-when-clinical-trials-research-gets-cut#:~:text=The%20NIH%20is%20the%20largest,on%20academic%20medical%20campuses.). (“In 2024, more than 80% of the [NIH’s] \$47 billion budget went to support research (including lab and clinical trials) at over 2,500 scientific institutions. Sixty percent of this extramural research occurred on academic medical center campuses.”).
3. See Congressional Research Service, *Substance Abuse and Mental Health Services Administration (SAMHSA): Overview of the Agency and Major Programs* (June 23, 2020), <https://www.congress.gov/crs-product/R46426>.

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