

Fraud and Abuse Laws



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(7-19)

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Holland & Hart Webinar Series

Overview of Relevant Fraud and Abuse Laws

- **June 27:** Eliminating Kickbacks in Recovery Act (“EKRA”)
- **July 2:** Fraud and Abuse Laws
 - Federal
 - State

Applying the Fraud and Abuse Laws

- **July 18:** Waiving Copays, Free or Discounted Items or Services, and Other Common Issues Involving **Patients**.
- **August 8:** Compensation Arrangements, Free or Discounted Items or Services, and other Common Issues Involving Referring **Providers**.

To sign up, contact Laura Squyres at LDSquyres@hollandhart.com.

Written Materials



- .Ppt slides
 - OIG, *Avoiding Fraud and Abuse*
 - OIG, *Supplemental Compliance Program Guidance for Hospitals*
 - Stanger, *Fraud and Abuse in Healthcare Transactions*
- *If you did not receive materials, contact Laura Squyres at LDSquyres@hollandhart.com.*
- *Additional resources at <https://www.hollandhart.com/healthcare>*

Fraud and Abuse



OIG Office of Inspector General
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JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, December 21, 2018

Justice Department Recovers Over \$2.8 Billion from False Claims Act Cases in Fiscal Year 2018

- \$2.5 billion recovered for healthcare fraud in 2018.
- For every \$1 spent in enforcement, government recovers \$4.

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Ohio-Based Health System Pays United States \$10 Million to Settle False Claims Act Allegations

March 31, 2015

WASHINGTON – Robinson Health System has agreed to pay \$10 million to settle allegations that it violated the False Claims Act, the Anti-Kickback Statute, and the Stark Law. The Justice Department announced today.

ed to pay \$10 million for engaging in improper arrangements with a nonprofit corporation, Memorial Hospital.

ted the False Claims Act with physicians.

Medical Biller Sentenced to 45 Months in Prison for Role in \$4 Million Health Care Fraud Scheme

The medical biller of a Chicago-area visiting physician practice was sentenced today to 45 months in prison for her role in a \$4 million health care fraud scheme.

improper physician's Attorney for

DaVita to Pay \$350 Million to Resolve Allegations of Illegal Kickbacks

DaVita Healthcare Partners, Inc., one of the leading provider of dialysis services in the United States, has agreed to pay \$350 million to resolve claims that it violated the False Claims Act by paying kickbacks to induce the referral of patients to its dialysis centers. The Justice Department announced today.

Adventist Health System Agrees to Pay \$115 Million to Settle False Claims Act Allegations

Adventist Health System has agreed to pay the United States \$115 million to settle allegations that it violated the False Claims Act by maintaining improper compensation arrangements with referring physicians and by miscoding claims, the Justice Department announced today. Adventist is a non-profit healthcare organization that operates hospitals and other health care

Increased Penalties

	Old Penalty	New Penalty
False Claims Act	\$5,500 to \$11,000 /claim	\$10,781 to \$21,563* /claim
• Failure to repay		\$20,000 per claim
Anti-Kickback Statute	\$25,000 criminal penalty 5 years in prison	\$100,000 criminal penalty 10 years in prison
	\$50,000	\$100,000 civil penalty
Ethics in Patient Referrals ("Stark")	\$15,000 per claim	\$24,748* per claim
• Circumvention scheme	\$100,000	\$164,992*
Civil Monetary Penalties Law		\$20,000 to \$100,000
• Induce beneficiaries	\$10,000	\$20,000
• Induce physicians	\$2,000	\$5,000
• Excluded Provider	\$10,000	\$20,000
(See 45 CFR 102.3)		

Fraud and Abuse Laws



**“I want my
money
back!”**

- False Claims Act
- Anti-Kickback Statute (“AKS”)
- Eliminating Kickbacks in Recovery Act (“EKRA”)
- Ethics in Physician Referrals Act (“Stark”)
- Civil Monetary Penalties Law (“CMPL”)
- Travel Act
- State Laws

False Claims Act

- Cannot knowingly submit a false claim for payment to the federal government.
- Must report and repay an overpayment within the later of 60 days after overpayment identified or date corresponding cost report is due.
- Penalties
 - Repayment plus interest
 - Civil monetary penalties of \$11,000 to \$22,000* per claim
 - 3x damages
 - Exclusion from Medicare/Medicaid

(31 USC 3729; 42 CFR 102.3; *see also* 18 USC 1347)

False Claims Act

- *Qui Tam* Suits: private entities (*e.g.*, employees, patients, providers, competitors, *etc.*) may sue the hospital under False Claims Act on behalf of the government.
 - Government may or may not intervene.
 - *Qui tam* relator.
 - Receives a percentage of any recovery.
 - Recovers their costs and attorneys fees.

False Claims Act: Examples

- Claims for services that were not provided or were different than claimed.
- Failure to comply with quality of care.
 - Express or implied certification of quality.
 - Provision of “worthless” care.
- Failure to comply with conditions of payment or relevant fraud and abuse laws.
 - Express or implied certification of compliance when submit claims, e.g., cost reports or claim forms. (*See Universal Health Serv., Inc. v. U.S. ex rel. Escobar* (S.Ct. 2016))

Anti-Kickback Statute (42 USC 1320a-7b; 42 CFR 1001.952)



Anti-Kickback Statute

- Cannot knowingly and willfully offer, pay, solicit or receive remuneration to induce referrals for items or services covered by government program unless transaction fits within a regulatory safe harbor.

(42 USC 1320a-7b(b))

- “One purpose test”
 - Anti-Kickback Statute applies if one purpose of the remuneration is to induce referrals. (*U.S. v. Greber*, 760 F.2d 68 (3d Cir. 1985)).
 - Difficult to disprove.
- Ignorance of the law is no excuse.

Anti-Kickback Statute

- Penalties
 - 10 years in prison
 - \$100,000 criminal fine
 - \$100,000 penalty
 - 3x damages
 - Exclusion from Medicare/Medicaid

(42 USC 1320a-7b(b); 42 CFR102.3)
- Anti-Kickback violation = False Claims Act violation
 - Lower standard of proof
 - Subject to False Claims Act penalties
 - Subject to qui tam suit.

(42 USC 1320a-7a(a)(7))
- OIG Self-Disclosure Protocol: minimum \$50,000 settlement.

Anti-Kickback Statute



WARNING

Anytime you want to:

- **Give or receive anything to induce referrals for federal health programs, or**
- **Do any deal with a referral source for federal health programs.**

Anti-Kickback Statute

- Applies to any form of remuneration to induce or reward referrals for federal program business.
 - Money.
 - Free or discounted items or services (e.g., perks, gifts, space, equipment, meals, insurance, trips, CME, etc.).
 - Overpayments or underpayments (e.g., not fair market value).
 - Payments for items or services that are not provided.
 - Payments for items or services that are not necessary.
 - Professional courtesies.
 - Waivers of copays or deductibles.
 - Low interest loans or subsidies.
 - Business opportunities that are not commercially reasonable.
 - Anything else of value...

Anti-Kickback Statute

- *U.S. v. Anderson* (10th Cir. 2001).
 - Clinic paid two physicians who were substantial referral sources \$75,000/year to serve as co-directors and consultants for geriatric department, but physicians performed few services.
 - Held:
 - Physician 1: 6 years + \$75,000 fine + \$142,000 restitution.
 - Physician 2: 3 years + \$25,000 fine.
 - Clinic CEO: 4 years + \$75,000 fine.
 - Clinic CFO: acquittal reversed.
 - Clinic attorney: acquitted.

Anti-Kickback Statute: Safe Harbors

- Bona fide employment
- Personal services contracts
- Leases for space or equipment
- Investments in group practice
- Investments in ASCs
- Sale of practice
- Recruitment
- Certain investment interests
- Waiver of beneficiary coinsurance and deductible amounts.
- Transportation programs
- OB malpractice insurance subsidies
- Electronic health record items or services
- Referral services
- Referral arrangements for specialty services
- Warranties
- Discounts
- Others

(42 CFR 1001.952)

Advisory Opinions

- **OIG may issue advisory opinions.**
 - **Listed on OIG fraud and abuse website, www.oig.hhs.gov/fraud.**
 - **Not binding on anyone other than participants to the opinion.**
 - **But you are probably fairly safe if you act consistently with favorable advisory opinion.**



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Advisory Opinions

In accordance with section 1128(D)(b) of the Social Security Act (42 U.S.C. 1320a-7d(b)) and 42 CFR part 1008, OIG issues advisory opinions about the application of OIG's fraud and abuse authorities to the requesting party's proposed arrangement. As requests are being made a

One purpose of meaningful advisory and other OIG's note, however, be relied upon legal standards who provide sp parties are bou opinions.

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- ▶ The OIG Interim Final Rule (73 Fed. Reg. 15937) revising the procedural aspects for submitting payments for advisory opinion costs.

I'm looking for

Let's start by choosing a topic

Select One

- OIG may issue advisory opinions.
- Listed on OIG fraud and abuse website, www.oig.hhs.gov/fraud.
- Not binding on anyone other than participants to the opinion.
- But you are probably fairly safe if you act consistently with favorable advisory opinion.



NEW!

Eliminating Kickbacks in Recovery Act (“EKRA”)



- Part of Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (“SUPPORT Act”) (2018)

EKRA

- **Cannot solicit, receive, pay or offer any remuneration in return for referring a patient to a laboratory, recovery homes or clinical treatment facility unless arrangement fits within regulatory exception.**

(18 USC 220)

Penalties

- \$200,000 criminal fine
- 10 years in prison
(18 USC 220)
- Maybe Anti-Kickback Statute violation?
- Maybe False Claims Act violation?

EKRA

- Applies to anyone involved in kickbacks.
- Applies to arrangements with:
 - Laboratories,
 - All clinical labs, not just toxicology labs
 - Recovery homes, or
 - Clinical treatment facilities
 - Not hospitals
- Applies to arrangements that would otherwise be protected by the AKS, e.g., productivity-based employment arrangements.
- Applies to items or services paid by private payers.
- Watch for regulations...



EKRA

Safe Harbors

- Discount or other reduction in price under a health care benefit program.
- Payment by employer to employee or independent contractor
- Discounts by drug of a manufacturer under Medicare coverage gap discount program
- Compensation that satisfies AKS personal services and management contract safe harbor so long as compensation does not vary with referrals.
- Waiver or discount of copays that satisfies Stark safe harbor and certain other conditions met
- Subsidies to health centers
- Remuneration under alternative payment models
- Any other payment, remuneration, discount, or reduction as determined by the Attorney General, in consultation with the Secretary of Health and Human Services, by regulation

(18 USC 220(b))

Ethics in Patient Referrals Act (“Stark”) (42 USC 1395nn; 42 CFR 411.351 et seq.)



Stark

- If a physician (or their family member) has a financial relationship with an entity:
 - The physician may not refer patients to that entity for designated health services, and
 - The entity may not bill Medicare or Medicaid for such designated health services (“DHS”)

unless arrangement structured to fit within a regulatory exception.

(42 CFR 411.353)

Stark

- Penalties
 - No payment for services provided per improper referral.
 - Repayment of payments improperly received within 60 days.
 - Civil penalties.
 - \$24,748 per claim submitted
 - \$164,922 per circumvention scheme

(42 CFR 411.353, 1001.102(a)(5); 1001.103(b); and 102.3)

- May also constitute Anti-Kickback Statute violation
- May trigger False Claims Act.



JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, October 16, 2015

United States Resolves \$237 Million False Claims Act Judgment against South Carolina Hospital that Made Illegal Payments to Referring Physicians

The Department of Justice announced today that it has resolved a \$237 million judgment against Tuomey Healthcare System for illegally billing the Medicare program for services referred by physicians with whom the hospital had improper financial relationships. Under the terms of the settlement agreement, the United States will receive \$72.4 million and Tuomey, based in Sumter, South Carolina, will be sold to Palmetto Health, a multi-hospital healthcare system based in Columbia, South Carolina.

“Secret sweetheart deals between hospitals and physicians, like the ones in this case, undermine patient confidence and drive up healthcare costs for everybody, including the Medicare program and its beneficiaries,” said Principal Deputy Assistant Attorney General Benjamin C. Mizer, head of the Justice Department’s Civil Division. “This case demonstrates the United States’ commitment to ensuring that doctors who refer Medicare beneficiaries to hospitals for procedures, tests and other health services do so only because they believe the service is in the patient’s best interest, and not because the physician stands to gain financially from the referral. The Department of Justice is determined to prevent the kind of abuses uncovered in this case, and we are willing to take such cases to trial to protect the integrity of the Medicare program.”

The judgment against Tuomey related to violations of the Stark Law, a statute that prohibits hospitals from billing Medicare for certain services (including inpatient and outpatient hospital care) that have been referred by physicians with whom the hospital has an improper financial relationship. The Stark Law includes exceptions for many common hospital-physician arrangements, but generally requires that any payments that a hospital makes to a referring physician be at fair market value for the physician’s actual services, and not take into account the volume or value of the physician’s referrals to the hospital.

The government argued in this case that Tuomey, fearing that it could lose lucrative outpatient procedure referrals to a new freestanding surgery center, entered into contracts with 19 specialist physicians that required the physicians to refer their outpatient procedures to Tuomey and, in exchange, paid them compensation that far exceeded fair market value and included part of the money Tuomey received from Medicare for the referred procedures. The government argued that Tuomey ignored and suppressed warnings from one of its attorneys that the physician contracts were “risky” and raised “red flags.”

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Stark

- *U.S. ex rel. Drakeford v. Tuomey Healthcare System* (4th Cir. 2013)

- Part-time employment contracts violated Stark.

- \$39,313,065 paid per improper referrals

- x 3 damages = \$117,939,195

- 21,730 false claims x \$5,500 per claim = \$119,515,000

\$237,454,195 judgment

- Ultimately settled for \$72.4 million.
- Relator received \$18 million.

Stark



WARNING

Any financial relationship or item of value between a physician (or their family) and an entity providing DHS.

Stark

- Applies to referrals by physician to entities with which the physician (or their family member) has financial relationship.
- Physician =
 - MDs
 - DOs
 - Oral surgeons
 - Dentists
 - Podiatrists
 - Optometrists
 - Chiropractors
- Family member =
 - Spouse
 - Parent, child
 - Sibling
 - Stepparent, stepchild, stepsibling
 - Grandparent, grandchild
 - In-law

(42 CFR 411.351)

Stark

- Applies to referrals by physician to entities with which physician (or their family member) has financial relationship.
 - Direct relationship.
 - Indirect relationship (e.g., through ownership in another entity).
- Financial relationship =
 - Ownership or investment: stocks, bonds, partnership, membership shares, secured loans, securities, etc.
 - Compensation: employment, contract, lease, payments, gifts, free or discounted items, and virtually any other exchange of remuneration.

(42 CFR 411.351 and .354)

Stark

- Applies to referrals for designated health services (“DHS”) payable in whole or part by Medicare.
 - Inpatient and outpatient hospital services
 - Outpatient prescription drugs
 - Clinical laboratory services
 - Physical, occupational, or speech therapy
 - Home health services
 - Radiology and certain imaging services
 - Radiation therapy and supplies
 - Durable medical equipment and supplies
 - Parenteral and enteral nutrients, equipment, and supplies
 - Prosthetics and orthotics
- CMS website lists some of the affected CPT codes.
(42 CFR 411.351)

Stark: Exceptions for Both Ownership and Compensation

- Physician services rendered by another physician in same group practice* or under such physician's supervision.
- In-office ancillary services provided through group practice*.
- Prepaid health plans.
- Certain services furnished in academic medical center.
- Implants in ASC.
- Preventive screening tests, immunizations, and vaccines.
- EPO and other dialysis-related drugs.
- Eyeglasses and contact lenses following cataract surgery.
- Intra-family rural referrals.

(42 CFR 411.355)

* Must qualify as “group practice” under 42 CFR 411.352.

Stark: Exceptions for Only Ownership or Investments

Ownership or investment interests in:

- Rural providers.
- The whole hospital, not a part of the hospital.
 - Subject to limits in 42 CFR 411.362.
- Publicly traded securities.
- Large, regulated mutual funds.

(42 CFR 411.356)

Stark: Exceptions for Only Compensation Arrangements

- Bona fide employment relationships.
 - Personal services contracts.
 - Space or equipment rental.
 - Timeshare arrangement
 - Physician or midlevel recruitment.
 - Physician retention.
 - Remuneration unrelated to DHS.
 - Fair market value.
- (42 CFR 411.357)
- Non-monetary compensation up to \$300.
 - Medical staff incidental benefits.
 - Compliance training.
 - Community-wide health information system.
 - Professional courtesy.
 - Certain payments by a physician for items or services at FMV.
 - Others.

<http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/index.html>

Physician Self Referral | Centers for Medicare & Medicaid Services - Windows Internet Explorer provided by Holland and Hart, LL

http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/index.html

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Physician Self Referral

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[Code List for Certain Designated Health Services \(DHS\)](#)

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[Definition of Entity](#)

[Self-Referral Disclosure Protocol Settlements](#)

[Significant Regulatory History](#)

Physician Self Referral

Section 1877 of the Social Security Act (the Act) (42 U.S.C. 1395nn), also known as the physician self-referral law and commonly referred to as the "Stark Law":

1. Prohibits a physician from making referrals for certain designated health services (DHS) payable by Medicare to an entity with which he or she (or an immediate family member) has a financial relationship (ownership, investment, or compensation), unless an exception applies.
2. Prohibits the entity from presenting or causing to be presented claims to Medicare (or billing another individual, entity, or third party payer) for those referred services.
3. Establishes a number of specific exceptions and grants the Secretary the authority to create regulatory exceptions for financial relationships that do not pose a risk of program or patient abuse.

The following items or services are DHS:

1. Clinical laboratory services.
2. Physical therapy services.
3. Occupational therapy services.
4. Outpatient speech-language pathology services.
5. Radiology and certain other imaging services.
6. Radiation therapy services and supplies.
7. Durable medical equipment and supplies.
8. Prosthetic and orthotic devices, equipment, and supplies.

- Advisory opinions
- FAQs
- DHS by CPT code
- Self-Referral Disclosure Protocol
- Recent settlements

Civil Monetary Penalties Law (42 USC 1320a-7a)



Civil Monetary Penalties Law

Prohibits certain specified conduct, e.g.:

- Submitting false or fraudulent claims, misrepresenting facts relevant to services, or engaging in other fraudulent practices.
- Violating Anti-Kickback Statute or Stark law.
- Violating EMTALA.
- Failing to report and repay an overpayment.
- Failing to grant timely access.
- Misusing “HHS”, “CMS”, “Medicare”, “Medicaid”, etc.
- Failing to report adverse action against providers.
- **Offering inducements to program beneficiaries.**
- **Offering inducements to physicians to limit services.**
- **Submitting claims for services ordered by, or contracting with, an excluded entity.**

(42 USC 1320a-7a; 42 CFR 1003.200-1100)

Civil Monetary Penalties Law

- Penalties vary based on conduct, but generally range from:
 - \$5,000 to \$100,000 fines
 - 3x amount claimed
 - Denial of payment
 - Repayment of amounts improperly paid
 - Exclusion from government programs
- CMPL violations may also violate:
 - False Claims Act
 - Anti-Kickback Statute
 - Stark
 - EKRA

Inducements to Govt Program Patients

- **Cannot offer or transfer remuneration to federal program beneficiaries if you know or should know that the remuneration is likely to influence the beneficiaries to order or receive items or services payable by federal or state programs from a particular provider.**
- **Penalty:**
 - **\$20,000 for each item or service.**
 - **3x amount claimed.**
 - **Repayment of amounts paid.**
 - **Exclusion from Medicare and Medicaid.**
- **Also a likely violation of the Anti-Kickback Statute**

(42 USC 1320a-7a(a)(5); 42 CFR 1003 and 102.3).

Inducements to Govt Program Patients

- “Remuneration” = anything of value, including but not limited to:
 - Items or services for free or less than fair market value unless satisfy certain conditions.
 - Waiver of co-pays and deductibles unless satisfy certain conditions.

(42 USC 1320a-7a(i); 42 CFR 1003.110; OIG Bulletin, *Gifts to Beneficiaries*)

- Govt will not prosecute based on item or service is low value, i.e.,
 - Each item or service is less than 15, and
 - Aggregate is less than \$75 per patient per year.

(OIG Bulletin, *Offering Gifts and Inducements to Beneficiaries* (8/02); 66 FR 24410-11; *OIG Policy Statement Regarding Gifts of Nominal Value* (12/7/16))

Inducements to Govt Program Patients

- “Remuneration” does not include:
 - Waivers or co-pays based on financial need or after failed collection efforts if certain conditions met.
 - Items or services if financial need and certain conditions met.
 - Incentives to promote delivery of preventative care if certain conditions met.
 - Payments meeting Anti-Kickback Statute safe harbor.
 - Retailer coupons, rebates or rewards offered to public.
 - Any other remuneration that promotes access to care and poses a low risk of harm to patients and federal health care programs.
 - Certain other situations.

(42 USC 1320a-7a(i); 42 CFR 1003.110)

Payment to Limit Services

- Hospital or CAH cannot knowingly make a payment, directly or indirectly, to a physician as an inducement to reduce or limit medically necessary services provided to Medicare or Medicaid beneficiaries who are under the direct care of the physician.
 - May include many “gainsharing” programs.
 - MACRA amendments ease the prohibition.
- Penalties:
 - \$5,000 for each individual with respect to whom payment made.
 - Any other penalty allowed by law.

(42 USC 1320a-7a(b)(1), as amended by MACRA; 81 FR 88370)

Excluded Entities

- **Cannot submit claim for item or service ordered or furnished by an excluded person.**
- **Cannot hire or contract with an excluded entity or arrange for excluded entity to provide items or services payable by federal programs.**
- **Penalties**
 - **\$10,000 per item or service.**
 - **3x amount claimed.**
 - **Repayment of amounts paid.**
 - **Exclusion from Medicare and Medicaid**

(42 USC 1320a-7a(a)(8); 42 CFR 1003.200; OIG Bulletin, Effect of Exclusion)

Excluded Entities

- Medicare, Medicaid, or other federal program will not pay claim if person “knew or should have known” of exclusion.
 - **Exception for certain emergency services.**
(42 CFR 1001.1901(b) and .1003.200(a))
- Knowledge =
 - **Knew or should have known of exclusion.**
 - **Notified by HHS of exclusion, e.g., in response to claim.**
 - **Listed on the List of Excluded Individuals or Entities (“LEIE”).**



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Report #, Topic, Keyword..
Advanced

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Home > Exclusions > LEIE Downloadable Databases

LEIE Downloadable Databases

E-mail me when this page is updated.

Download the LEIE Database

ANNOUNCEMENT: As of the September 2013 update, only the LEIE files containing the NPI, Waiver, and Waiver States fields will be available.

Instructions and information About the LEIE Files.

Below files updated: 05-08-2015

LEIE Database

- 04-2015 Updated LEIE Database: EXE | ZIP

Current Monthly Supplements

- 04-2015 Exclusions: EXE | ZIP
- 04-2015 Reinstatements: EXE | ZIP
- Monthly Supplement Archive

Profile Updates

- 04-2015 Profile Corrections

Related Information

- Waiver Info
- Search the Online LEIE Database

How To Use These Files

View a video tutorial on using the downloadable files.



I'm looking for

Let's start by choosing a topic

Select One

- Online Searchable Database
- LEIE Downloadable Databases
- Monthly Supplement Archive
- Waivers
- Quick Tips
- Background Information
- Applying for Reinstatement
- Contact the Exclusions Program
- Frequently Asked Questions
- Special Advisory Bulletin and Other Guidance



List of Excluded Individuals and Entities ("LEIE")

- OIG maintains LEIE and updates monthly:
https://oig.hhs.gov/exclusions/exclusions_list.asp
 - Check LEIE before hiring or contracting with entities.
 - Employees, contractors, vendors, medical staff, etc.
 - Check LEIE periodically to determine status.
 - Employees, providers, vendors, medical staff members, ordering providers, others?
- Condition contracts and medical staff membership on non-exclusion.
- Respond promptly if receive notice of excluded entity.

Advisory Opinions

- **OIG may issue advisory opinions.**
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 - **But you are probably fairly safe if you act consistently with favorable advisory opinion.**

Travel Act

Feds Allege Mass Forest Park Medical Center Kickback Scheme; 21 Indicted

12/1/2016 | by Matt Goodman | 15 Comments | [+](#) Share Post



(Credit: Justin Glasser)



The Travel Act

- Cannot use mail or interstate commerce to violate any state or federal law involving certain crimes, including bribery.

(18 USC 1952)

- Penalties

- Fines

- Up to 20 years in prison.

- *US v. Beauchamp* (ND Tex. 8/18/18): applied Travel Act to kickback scheme involving physicians in violation of Texas law even though arrangement involved private payers.

➤ *Beware state laws, especially those prohibiting commercial bribery...*

State Laws



Common State Laws

- Fraud
 - Bribery
 - False claims acts
 - Medicaid
 - Others?
 - Anti-kickback statutes
 - Self-referral limitations
 - “Mini-Stark” laws
 - Fee splitting
 - Others?
- May apply to govt programs and/or private payers

Additional Resources



https://oig.hhs.gov/compliance/

The screenshot shows a Windows Internet Explorer browser window displaying the 'Compliance' page of the Office of Inspector General (OIG) website. The address bar shows the URL 'https://oig.hhs.gov/compliance/'. The browser's Favorites bar includes links to 'AHLA Lists', 'AKS', 'CMS home', 'CMS Stark', 'eCFR', 'EMTALA guidelines', 'Gmail', 'HIPAA', 'Hotmail', 'Idaho Statutes', 'IDAPA DHW', 'IDSOS Search', 'MapQuest', 'Nursing Facilities', 'OCR HIPAA', 'OIG', and 'Stark'. The website header features a 'REPORT FRAUD' button, navigation links for 'Home', 'FAQs', 'FOIA', 'Careers', 'HEAT', and 'Contact Us', and social media icons for YouTube and Twitter. The main navigation menu includes 'About OIG', 'Reports & Publications', 'Fraud', 'Compliance', 'Recovery Act Oversight', 'Exclusions', and 'Newsroom'. The 'Compliance' section is active, showing a breadcrumb trail 'Home > Compliance' and a search bar. The page content is divided into two columns. The left column features two main sections: 'Accountable Care Organizations' and 'Advisory Opinions'. Each section includes a brief description and a 'Read More' button. The right column contains a red 'I'm looking for' callout box with the text 'Let's start by choosing a topic' and a 'Select One' dropdown menu. Below this, a list of topics is displayed, including 'Accountable Care Organizations', 'Advisory Opinions', 'Compliance 101 and Provider Education', 'Compliance Guidance', 'Corporate Integrity Agreements', 'Open Letters', 'RAT-STATS', and 'Safe Harbor Regulations'. The Windows taskbar at the bottom shows the system tray with the time '7:43 PM' and date '2/19/2013'.

Compliance | Office of Inspector General | U.S. Department of Health and Human Services - Windows Internet Explorer provided by

https://oig.hhs.gov/compliance/

Convert Select

Favorites AHLA Lists AKS CMS home CMS Stark eCFR EMTALA guidelines Gmail HIPAA Hotmail Idaho Statutes IDAPA DHW IDSOS Search MapQuest Nursing Facilities OCR HIPAA OIG Stark

Compliance | Office of Inspector General | U.S. De...

Home • FAQs • FOIA • Careers • HEAT • Contact Us

REPORT FRAUD

U.S. Department of Health & Human Services

Office of Inspector General
U.S. Department of Health & Human Services

Report #, Topic, Keyword.. Search

Advanced

About OIG Reports & Publications Fraud Compliance Recovery Act Oversight Exclusions Newsroom

Home > Compliance

Compliance

Accountable Care Organizations

The Affordable Care Act contains several provisions that support the development of Accountable Care Organizations to manage and coordinate care for beneficiaries.

Read More

Advisory Opinions

The OIG issues advisory opinions about the application of OIG's fraud and abuse authorities to the requesting party's existing or proposed business arrangement.

Read More

I'm looking for

Let's start by choosing a topic

Select One

- Accountable Care Organizations
- Advisory Opinions
- Compliance 101 and Provider Education
- Compliance Guidance
- Corporate Integrity Agreements
- Open Letters
- RAT-STATS
- Safe Harbor Regulations

Done

Internet | Protected Mode: Off

7:43 PM
2/19/2013

<https://www.hollandhart.com/healthcare#overview>



OVERVIEW ▶

PRACTICES/INDUSTRIES

NEWS & INSIGHTS

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The Healthcare Industry is poised to continue its rapid evolution. With this sector now making up close to 20 percent of GDP, our lawyers stand ready to help as changes unfold.

Issues such as rising healthcare costs, healthcare reform, data and privacy security, and innovations in healthcare delivery, device and pharmaceutical designs are forefront in the minds of many of our clients. We are here to guide our clients through the challenges and opportunities that arise in this dynamic industry.

Clients We Serve

- Hospitals
- Individual medical providers
- Medical groups
- Managed care organizations (MCOs)
- Third-party administrators (TPAs)
- Health information exchanges (HIEs)
- Practice managers and administrators
- Veterans Affairs medical facilities
- Independent Practice Associations (IPAs)
- Imaging centers
- Ambulatory surgery centers
- Medical device and life science companies



Questions?



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