

Physician/Hospital Arrangements

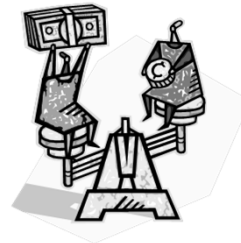


**THE ROAD TO A COMPLIANT RELATIONSHIP
JUDY K. WARE, CHIEF COMPLIANCE OFFICER-
CENTRAL GEORGIA HEALTH SYSTEM**



Agenda

- Introductions
- Brief overview of federal laws and regulations
- Accessing what financial relationships exist
- Gathering all the needed information
- Establishing a policy & developing a process
- Building relationships & educating all the key players
- Reporting results and developing corrective action plans



All Eyes on Physician-Hospital Arrangements

- Financial relationships between hospitals and physicians have come under scrutiny –due to rise in whistleblowers reporting violations in hospitals and stricter enforcement of Stark Law, the anti-kickback statute, and the False Claims Act (FCA).

All Eyes on Physician-Hospital Arrangements



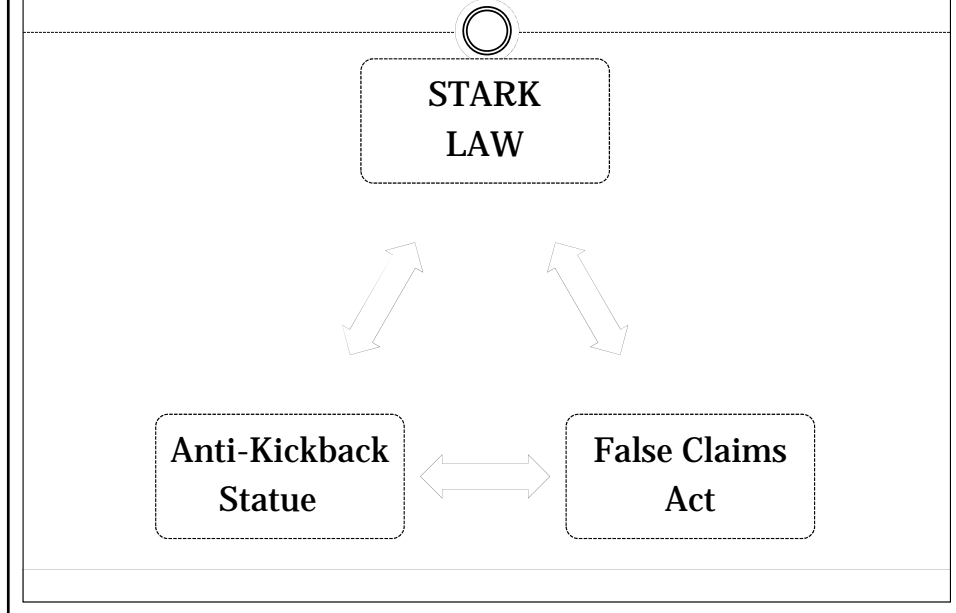
- This makes it more important than ever to conduct formal evaluations of “commercial reasonableness” and fair market value (FMV), which should be one of the first steps to demonstrating that agreements with and payments to physicians are not going to lead to legal troubles.

Disclaimer.....



- This Session is not intended to make you a legal expert on the federal laws that apply to physician and hospital financial arrangements. The laws and regulations in this area are extremely complex and you should always consult with knowledgeable and experienced legal counsel on any questions you may have related to your particular situation.

Overview of Federal Laws & Regulations



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 has a direct or indirect financial relationship, unless an exception applies; AND
2. Prohibits the entity from filing claims with Medicare (or billing another individual, entity, or other third-party payer) for those DHS rendered as a result of a prohibited referral.

The Stark Law



- Also known as the Physician Self-Referral Law
- Civil, not criminal law
- Knowledge and/or intent to violate law is not necessary
- Allows exceptions vs. Safe Harbors

The Stark Law



- Violations of the Stark Law can result in additional penalties:
 - False Claims penalties up to 3x's the amount claimed
 - Civil monetary penalties up to \$15,000 per item or service
 - Civil monetary penalties up to \$100,000 for arrangements designed to circumvent the Stark Law
 - Potential exclusion of the hospital from the Medicare and Medicaid programs
 - Fines and penalties can be assessed in addition to Anti-kickback Statute fines and penalties

Federal Anti-Kickback Statute (“AKS”)



- **Violation of the Anti-Kickback Statute is a felony**
The anti-kickback statute prohibits giving (or offering to give) remuneration to another if the payment is intended to induce the recipient to:
 - ✦ **“Refer” an individual to a person for the furnishing of an item or service for which payment may be made in whole or in part, under a federal healthcare program**
 - ✦ **Purchase, Recommend or Arrange for the purchase, order, or lease any such item or service**

Federal Anti-Kickback Statute (“AKS”)



- **Fine of \$25,000 per violation**
- **Imprisonment for up to five years, or both**
- **The government may also impose civil penalties and exclude violators from government health programs**
- **Costly and onerous Corporate Integrity Agreements as a condition of continued participation in government health care programs**

False Claims Act - Penalties



- Fine of \$5,500-\$11,000 for each claim
- Up to 3 times the amount of damages the government sustains
- Potential Exclusion from Medicare/Medicaid Reimbursement Program

Where Are We?



Who are we paying?



- General Ledger Review of expenses accounts
- Ask questions
- Review 1099's with accounting

Review current Arrangements

Risk Areas

- Medical Director
- Professional Services-Readers
- On-Call Agreements
- Space and Equipment Leases
- Employment Agreements
- Management Agreements
- Physician Practice Acquisitions



Problems/Issues/Opportunities



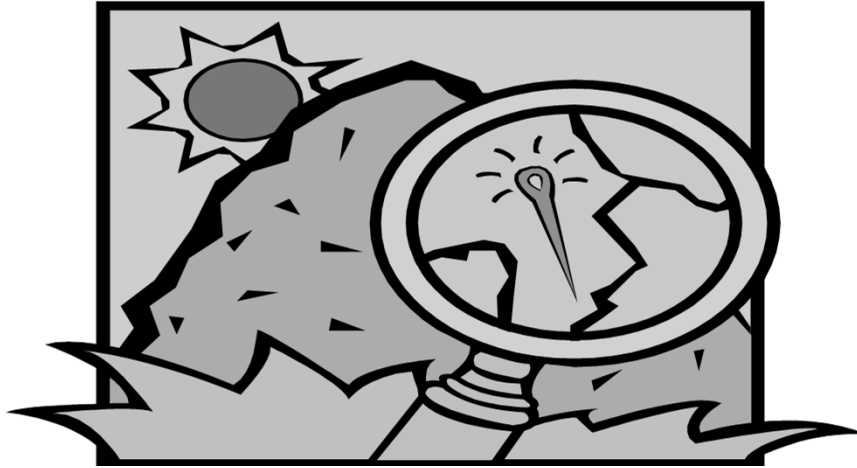
- **Missing Signatures**
- **No contract for medical staff leadership arrangements**
- **Missing signatures on hospital arrangements**
- **An office-space lease that had a contract term of less than one year**
- **An office-space lease with contract terms that were ambiguous**
- **An equipment loan without an written agreement**
- **Expired contracts**
- **Email /letter acknowledgement with no formal contract**

Examples



- **Whidbey Island Public Hospital District in Coupeville, Washington- \$858,571**
- **City Hospital, Inc., Jefferson Memorial Hospital, West Virginia University Hospital-East- \$949,595**
- **Natividad Medical Center-\$174,508**

Turn over all rocks!



Where are we Going?



Why are we paying?



- What is the specific purpose of the arrangement?
- Why is the item or service necessary from this physician?
- Is the arrangement essential to the functioning of the hospital?
- Is the arrangement duplicative of other arrangements or requirements?

Do we have a contract?

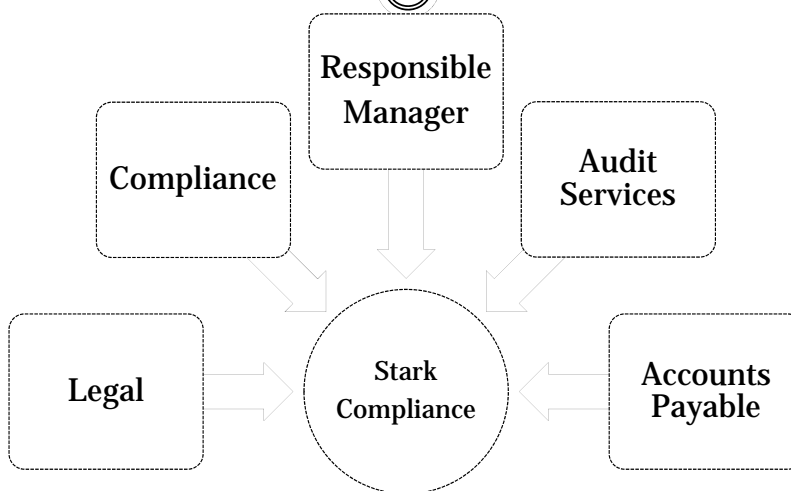


- Is there a formal written contract or agreement addressing the terms of the arrangement?
- Is there a formal process for executive management and legal counsel to review and approve the arrangement?
- Does a Master list of contracts exist?
- Is the contract signed by both parties?
- Is the basis for FMV documented?

How do we get there?



Not just Compliance's Responsibility



Compliance and More

- **Key Controls:**
 - Governance & Oversight
 - Policies, Procedures, and Workflows
 - Collaboration/Communication
 - Corrective Action
 - Auditing & Monitoring
 - Reporting
 - Training



Policy Making



- Put policy in writing
- Clearly delineate responsibilities
- Responsible manager defines role and controls of measurement
- Legal review
- Board Approval if necessary
- Educate

Practical Strategies, and Tools



Thanks !

Judy K. Ware, CPA

VP and Chief Compliance Officer
Audit Services and Corporate Compliance
691 Cherry Street, Suite 800
Macon, Georgia 31201
phone: 478-633-6831
Ware.judy@mccg.org