



**Should Compliance Be So Hard? A
Discussion About Legal Issues Related
To Your Practice**

**Stuart J. Vogelsmeier,
J.D.**

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LASHLY & BAER, P.C.
ATTORNEYS AT LAW

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- The SLMMS, Anders, and Lashly & Baer, P.C. are providing this material for informational and educational purposes only.
- Healthcare providers should contact their legal counsel for assistance.

Anti-Kickback Basics

- OIG focus is whether one party is offering **remuneration** (i.e., something of value) to the other party in exchange for **referrals** which are paid by Medicare/Medicaid.
- Multiple safe harbors available to protect certain activity.
- Advisory opinion process available to get OIG opinion.

Anti-Kickback Flashpoints

- Offering free services, staff, or equipment to physician, with hopes of referrals.
- Paying for services that are not really needed or rendered, with hopes of referrals.
- Paying too much/too little (e.g. rent paid to referral source).

Anti-Kickback Flashpoints

- Hospital providing employee-type benefits to non-employed physicians.
- Physician investment in ancillary provider that is not within physician's practice (e.g., internist investing in surgery center).

Anti-Kickback Problem

- Is there a referral relationship?
- Is there something of value being exchanged?
- Are there Medicare/Medicaid patients?

Billing Issues

- Medicare.
- Managed Care Contracts.
- Insurance Laws.

Billing Issues-Professional Courtesy

- Employees-consider making it a benefit.
- Referral Source-Risky.
- Outsiders-Better off not charging for the service.
- Don't Advertise.
- Charity Care-Adopt Policy; Apply Uniformly.

Billing Example

- Usual and Customary Charge for service is \$100
- Patient Portion is \$20%
- Physician waives patient portion
- What happens under Medicare?
- What happens under managed care contract?
- What if physician is out-of-network?

Stark Law Basics

- Is a physician involved?
- Is there a financial relationship?
- Is there a Designated Health Service?
- Is there a referral?
- Is Medicare, Medicaid or other Federal governmental payor involved?
- Is there an “Exception”?

Stark Law Examples

- Physician Ownership in Imaging Center
- Providing DME in practice