

To: Hospitals and Health Systems *and* Fraud and Abuse
Practice Group Members

From: Hospitals and Health Systems *and* Fraud and Abuse
Practice Group Leaderships

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Additional Settlement Under Stark Self-Referral Disclosure Protocol

By John Garver, III, and Jennifer Hutchens*

On October 25, the Centers for Medicare & Medicaid Services (CMS) announced its fourteenth settlement¹ under the Voluntary Self-Referral Disclosure Protocol (SRDP). This settlement involved violations of the federal physician self-referral statute (Stark Law) by a general acute care hospital (Hospital) and its hospice facility (Hospice), both located in North Carolina. The Hospital disclosed under the SRDP that it may have violated the Stark Law by: (1) failing to satisfy the requirements of the physician recruitment exception for an arrangement with one physician; (2) failing to satisfy the requirements of the fair market value (FMV) exception for arrangements with two physicians to provide medical director services; (3) failing to satisfy the requirements of the FMV exception for the provision of leadership stipends to thirteen physicians; and (4) failing to satisfy the requirements of the personal services arrangement exception for an arrangement with a group practice to provide ophthalmology services. The Hospital also disclosed on behalf of the Hospice that it may have violated the Stark Law by failing to comply with the FMV exception for arrangements with two physicians to provide hospice services. All violations disclosed were settled for \$584,700. CMS provides a [list](#) of "select" self-disclosures resolved under the SRDP, including this settlement.

**We would like to thank John B. Garver, III, Esquire, and Jennifer C. Hutchens, Esquire (Robinson Bradshaw & Hinson PA, Charlotte, NC), for providing this email alert. We would also like to thank the Hospitals and Health Systems Practice Group leadership for sharing this alert with the Fraud and Abuse Practice Group.*

¹ The authors note that in a previously issued Practice Group email alert, issued on November 12, we indicated that the CMS SRDP settlement announced on November 6 (which involved a California hospital) was the fourteenth settlement announced under the SRDP. This California hospital settlement was actually the *fifteenth* settlement. We regret the error.

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