



Coming in November: Awareness, Celebration, and Recognition of Corporate Compliance and Ethics Week – also known as Compliance Week at UNM Health Sciences Center.

Stark Law and the Anti-Kickback Statute: Similar Goals, Different Rules

Federal healthcare laws are designed to help ensure that medical decisions are based on what is best for the patient and not financial incentives. Two important laws supporting this goal are the Stark Law (Physician Self-Referral Law) and the Anti-Kickback Statute (AKS). While the laws sometimes overlap, they address different types of conduct.

What is the Stark Law?

Generally, the Stark Law prohibits providers from referring Medicare patients for certain designated health services (DHS) to an entity the provider, or an immediate family member, has a financial relationship with, unless an exception applies. For example, an exception may apply when a provider is employed by an entity, such as a hospital, and is paid fair market value for the work they perform rather than being compensated based on the volume or value of referrals they make to an entity. Examples of financial relationships can include ownership or investment interests in an entity, in addition to compensation arrangements.

The entity is also prohibited from billing for services resulting from a prohibited referral. For example, if a provider refers a Medicare patient for a DHS to an entity the provider owns and no Stark Law exception applies, the entity usually cannot bill for the service provided as a result of that referral.

It is important to know that the Stark Law does not usually require intent. Violation of the Stark Law can occur when a financial arrangement that does not meet an applicable exception happens even if there was not any intention of violating the law.

What is the Anti-Kickback Statute?

The AKS is broader than the Stark Law in some respects. It prohibits knowingly and willfully offering, paying, soliciting, or receiving anything of value to encourage or reward referrals or generate business involving items or services that are paid by a federal healthcare program. Remuneration includes more than cash or excessive compensation. It also includes gifts, free or discounted services, or other benefits.

Unlike the Stark Law, the AKS is an intentional criminal statute. However, certain arrangements may qualify for statutory exceptions or regulatory safe harbors.

How are they similar and how are they different?

Both the Stark Law and the AKS are designed to prevent financial incentives from improperly influencing healthcare decisions and referrals. However:

- Stark Law primarily focuses on physician financial relationships and referrals for designated healthcare services for Medicare patients, and usually does not require proof of intent.





- AKS applies to anyone offering, paying, soliciting, or receiving remuneration involving federal healthcare programs, and requires knowing and willful conduct.
- Stark Law has specific exceptions, while the AKS includes statutory exceptions and regulatory safe harbors

What are the penalties?

Stark Law violations can result in denial of payment, repayment of amounts improperly collected, civil monetary penalties, exclusion from federal healthcare programs, and in some circumstances, False Claims Act liability.

AKS violations are felonies. Criminal penalties can include up to \$100,000 in fines and up to 10 years in prison per violation. Violations can also result in civil monetary penalties, exclusion from federal healthcare programs, and False Claims Act liability because claims resulting from AKS violations can constitute false or fraudulent claims.

What is your responsibility?

You are not expected to be an expert on these complex laws or determine if a situation legally meets the requirements of Stark Law or the AKS. Your responsibility is to recognize when a financial relationship, payment, gift, referral arrangement, or other situation doesn't look right and raise the concern. When in doubt, reach out to your supervisor, the HSC Compliance Office, or the Office of University Counsel.



Scan this QR Code to be directed to the [Compliance Week website](#) to download the 2026 Compliance Week Schedule of Events.

While you're there, you can also learn more about your automatic eligibility to win a loaded swag bag for completing this year's required compliance training: General Compliance; Fraud, Waste, and Abuse; and Code of Conduct/Codes of Professionalism and Conduct.

