
HOUSE CONCURRENT RESOLUTION

URGING THE ENFORCEMENT OF AND SUPPORT FOR THE INTENT OF THE
FEDERAL STARK LAW.

1 WHEREAS, the Stark Law, passed by the United States
2 Congress in 1989 as a provision of the Omnibus Budget
3 Reconciliation Act of 1989, bars physician self-referrals for
4 clinical laboratory services under the Medicare program; and
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6 WHEREAS, the Stark Law was enacted as a means to reduce
7 health care costs by barring physician self-referral, the
8 practice of a physician referring a patient to a medical
9 facility in which the physician has a financial interest,
10 including ownership, investment, or a structured compensation
11 arrangement; and
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13 WHEREAS, subsequently amended by:

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15 (1) The Omnibus Budget Reconciliation Act of 1993, which
16 expanded the restriction to a range of additional
17 health services and applied the restriction to both
18 Medicare and Medicaid; and
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20 (2) Section 1877 of the Social Security Act of 1994, which
21 made technical corrections to the 1993 law,
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23 the Stark Law comprises three separate provisions that govern
24 physician self-referral for Medicare and Medicaid patients; and
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26 WHEREAS, the Stark Law:

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28 (1) Prohibits a physician, subject to certain exceptions,
29 from making referrals for certain designated health
30 services payable by Medicare to an entity with which



1 the physician or an immediate family member has a
2 financial relationship;

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4 (2) Prohibits a subject entity from presenting or causing
5 to be presented claims to Medicare, or billing another
6 individual, entity, or third party payer, for those
7 improperly referred services; and

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9 (3) Establishes a number of specific exceptions and grants
10 the Secretary of the United States Department of
11 Health and Human Services the authority to create by
12 rule exceptions for financial relationships that do
13 not pose a risk for program or patient abuse; and
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15 WHEREAS, the Patient Protection and Affordable Care Act,
16 which was signed into law on March 23, 2010, amends the Stark
17 Law in several areas by:

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19 (1) Adding a new requirement to the in-office ancillary
20 services exception for referrals of certain diagnostic
21 imaging services;

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23 (2) Substantially limiting the scope of the whole-hospital
24 exception permitting referrals to hospitals with which
25 the referring physician has a financial relationship;
26 and

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28 (3) Requiring the United States Department of Health and
29 Human Services, together with the Office of the
30 Inspector General of the United States Department of
31 Health and Human Services, to establish a protocol for
32 health care providers to self-disclose actual or
33 potential violations of the Stark Law; now, therefore,
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35 BE IT RESOLVED by the House of Representatives of the
36 Twenty-sixth Legislature of the State of Hawaii, Regular Session
37 of 2012, the Senate concurring, that the United States Office of
38 the Attorney General; United States Department of Health and
39 Human Services; United States Federal Trade Commission; United
40 States Securities and Exchange Commission; United States
41 Internal Revenue Service; State of Hawaii Office of the Attorney
42 General; State of Hawaii Department of Health; and State of
43 Hawaii Department of Human Services, are urged to enforce the



1 Stark Law to the full extent of their statutory and regulatory
2 authority to do so; and
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4 BE IT FURTHER RESOLVED that AlohaCare; Hawaii Management
5 Alliance Association; Hawaii Medical Service Association; Humana
6 Insurance Company; Kaiser Foundation Health Plan, Inc.;
7 Summerlin Life & Health Insurance Co.; United Health Alliance;
8 United Healthcare Insurance Company; Wellcare Health Insurance
9 of Arizona, Inc.; and other health insurers and managed care
10 providers who serve the people of Hawaii are urged to develop
11 internal policies that facilitate enforcement and support the
12 intent of the federal Stark Law as well as encourage compliance
13 with the reporting requirements under 42 Code of Federal
14 Regulations 411.361, relating to financial relationships; and
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16 BE IT FURTHER RESOLVED that certified copies of this
17 Concurrent Resolution be transmitted to the United States
18 Attorney General; United States Secretary of Health and Human
19 Services; Chairperson of the Federal Trade Commission;
20 Chairperson of the Securities and Exchange Commission;
21 Commissioner of the Internal Revenue Service; State Attorney
22 General; State Director of Health; State Director of Human
23 Services; Board President of AlohaCare; President and Chief
24 Executive Officer of the Hawaii Management Alliance Association;
25 President and Chief Executive Officer of the Hawaii Medical
26 Service Association; Chairperson and Chief Executive Officer of
27 Humana Insurance Company; President of Kaiser Foundation Health
28 Plan, Inc.; President and Chief Executive Officer of Summerlin
29 Life & Health Insurance Co.; President of United Health
30 Alliance; President and Chief Executive Officer of United
31 Healthcare Insurance Company; and Chief Executive Officer of
32 Wellcare Health Insurance of Arizona Inc.
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OFFERED BY:

Calvin K. Day
(By Request)

FEB 27 2012

