



# VISIONQWEST Healthcare GROUP

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SUBJECT: PHYSICIAN SELF-REFERRALS (STARK LAW).  
REFERENCE #: VQ-SP-1003  
LINE OF BUSINESS: GLOBAL POLICY (ALL BUSINESS LINES)  
EFFECTIVE DATE: 11/21/11  
REVISED DATE: 11/21/11  
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## 1. REGULATORY REFERENCES

- 1.1 CoP: N/A
- 1.2 ACHC: N/A

## 2. PURPOSE

- 2.1 This policy provides guidance for compliance with the Federal Physician Self-Referral Statute (Stark Law). The Company has additional statespecific policies for compliance with other federal and state laws covering fraud and abuse, including state laws and regulations governing physician self-referrals.

## 3. POLICY

- 3.1 Summary of the Physician Self-Referral Statute 42 U.S.C. §1395nn.
  - 3.1.1 The Stark Law generally prohibits a physician from referring a patient to an entity with which the physician (or an immediate family member) has a financial relationship, for the furnishing of “designated health services” (DHS). Home health services, physical therapy, occupational therapy, speech therapy and durable medical equipment are some of the enumerated DHS, under the Stark Law.
  - 3.1.2 Under the Stark Law, “financial relationships” include both direct and indirect relationships, as well as ownership and investment interests and compensation arrangements.
  - 3.1.3 The entity providing the DHS is not permitted to submit a claim to, or bill Medicare, Medicaid or any other payor source for DHS provided pursuant to a referral by a physician who has a financial relationship (or whose immediate family member has a financial relationship) with the entity providing the DHS, unless an exception is met. To the extent that the entity has submitted billing, the money must be returned.
  - 3.1.4 There are exceptions to the Stark Law which enable certain arrangements to be permissible when those arrangements would otherwise violate the Stark Law. Some of these permissible arrangements include, but are not limited to, employment **SUBJECT: PHYSICIAN SELF-REFERRALS (STARK LAW).**

arrangements, rental arrangements, and other arrangements in which compensation is paid for reasons unrelated to the referrals.

To qualify for an exception the arrangement must meet specified criteria and:

- (a) be commercially reasonable;
- (b) be in writing and signed by both parties;
- (c) have a term for a minimum of one year;
- (d) set the compensation in advance, and such compensation must be consistent with fair market value, and not take into account the volume or value of referrals or other business generated by the physician;
- (e) not violate the AKS; and
- (f) must ensure that the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates a federal or state law.

#### 4. PROCEDURE

- 4.1 The Company will structure transactions, arrangements and relationships so that such transactions fit within the statutory and regulatory exceptions to the Stark Law. The Chief Compliance Officer and Legal Department must review all proposed transactions, arrangements and relationships between the Company and physicians, or family members of physicians, with whom there is a proposed financial relationship before such transactions, arrangements and relationships are finalized.
- 4.2 The Company will ensure that any remuneration it pays or receives from, or provides to, any potential referral source is not a payment for referrals.
- 4.3 Any employee, independent contractor or Company agent who identifies a potential Stark Law violation involving individuals or entities with whom the Company has a referral or contractual relationship should immediately contact the Chief Compliance Officer (directly or through the Company's toll-free Compliance Hotline at 1-818-547-0497 Ext 2).
- 4.4 The Chief Compliance Officer shall investigate any and all reported violations in a timely manner, and in accordance with the Company's compliance plan. The Chief Compliance Officer must take all necessary actions to prevent the reoccurrence of any such violations. The

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appropriate action(s) to be taken will depend on the specific violation, and includes, but is not limited to, termination of the arrangement, revisions of processes, policies, procedures and/or systems, and disciplinary action.

**5. ADDITIONAL DOCUMENTATION:**

- 5.1 State Specific Guidelines
- 5.2 Beneficiary Inducement & Waiver of Co-Pays & Deductibles Policy
- 5.3 Code of Conduct
- 5.4 Deficit Reduction Act Policy
- 5.5 Federal Anti-Kickback Statute Policy
- 5.6 Offer and Acceptance of Gifts and Business Gratuities Policy
- 5.7 Progressive Discipline Policy
- 5.8 Policy and Procedure Cross-Walk