

FRAUD ALERT

Ruskin Moscou Faltischek's Health Law Capabilities:

- Strategic Planning
- Corporate Reorganizations, Mergers and Joint Ventures
- Federal and State Regulation Compliance, including HIPAA
- Purchases/Sales of Hospitals and Practices
- Intellectual Property Issues
- Contracts – Managed Care, Insurance, Management and Employment
- Equipment Acquisitions
- Certificates of Need
- Professional Licensing and Disciplinary Proceedings
- Hospital and Physician Privilege Disputes
- Creation of Compliance Plans and Fraud Detection Systems
- Anti-Referral Law Counseling
- Formation of PCs and LLCs, and Shareholder Agreements
- Defense of Medicare/Medicaid Investigations

Gregory J. Naclerio is a partner at Ruskin Moscou Faltischek, one of New York's leading healthcare and business law firms, and is chair of the Health Law Transactional and Health Law Regulatory Departments and co-chair of the White Collar Crime & Investigations Group. He is also a member of the Corporate Governance Practice Group. Mr. Naclerio is a Certified Fraud Examiner and has authored many articles on white-collar fraud issues and is a frequent lecturer on this topic.

Ellen F. Kessler is a partner at Ruskin Moscou Faltischek, where she is a member of the Firm's Health Law Department. Ms. Kessler brings special expertise to the practice of law, both as an experienced attorney and a registered nurse. She has counseled health care clients on the establishment of professional practices, employment and professional service relationships, relationships with health care providers and regulatory and professional licensure issues under state and federal law.

Will Nuclear Medicine Now Become a DHS?

OIG Imposes Exclusion List Violations

Nuclear Medicine

The Centers for Medicare and Medicaid Services (CMS) has just released a proposed rule that, if finalized, would directly affect physician ownership or investment in nuclear medicine or PET scan facilities. The proposed rule would add all nuclear medicine diagnostic and therapeutic services and supplies to the list of designated health services under the federal Stark Law. This would mean that if a physician, or his/her immediate family member, owned or had a financial relationship with a provider of nuclear medicine services, such physician could not refer patients to such provider unless an exception under the law applied.

CMS is providing a comment period for submission of comments about the proposed rule. Comments must be received no later than 5 p.m. on September 30, 2005 and may be submitted electronically, by mail, by hand or courier. If you are interested in submitting a comment to CMS for consideration, we can provide you with the necessary details.

OIG Exclusions

The OIG has also imposed civil monetary penalties against providers who employ individuals who have been excluded from the Medicare/Medicaid program and then bill the program for these individuals' services. Providers are held to a "should have known" standard and the CMP penalties can be significant.

Providers should check the searchable, on-line OIG Exclusion List by going to <http://www.oig.hhs.gov/fraud/exclusions.html> for current state licensure information on all new employees.

For more information, please contact Gregory J. Naclerio at (516) 663-6633 or Ellen Kessler at (516) 663-6522 at RMF or visit our website at www.rmfp.com.

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