

## **Dermatology Management Company Pays Millions for Self-Reported FCA Liability**

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On Tuesday, September 12, 2023, a Texas-based Dermatology Management Company, Oliver Street Dermatology Management LLC d/b/a U.S. Dermatology Partners (“USDP”) [agreed to pay the U.S. government](#) approximately \$8.9 million, including \$5.9 million in restitution, to settle self-reported allegations of potential violations of the Physician Self-Referral Law, also known as the “[Stark Law](#),” and the [Anti-Kickback Statute](#) (“AKS”), resulting in liability under the False Claims Act (“FCA”).

According to the Settlement Agreement, in September 2021, USDP self-disclosed to the Department of Justice that it had discovered evidence suggesting that former senior managers had offered and/or agreed to increase the purchase price of 11 acquired practices (which had been acquired between January 2013 and July 2018) in exchange for an agreement by the provider at the practice to refer services to USDP-affiliated entities post-acquisition. Claims for some of those services were then submitted to Medicare for payment. Such actions violated both the AKS and Stark laws.

Both the AKS and Stark Law are based on the public policy that medical judgments should not be compromised by improper financial inducements or incentives. The AKS prohibits offering or paying remuneration in an effort to induce the referral of items or services covered by federally funded healthcare programs. The Stark Law prohibits healthcare entities from billing for certain services referred by physicians with whom the entity has a financial relationship, unless the relationship falls within one of the law’s Safe Harbor Exceptions. Penalties for violations of the AKS and/or Stark Law include hefty fines and civil penalties for each service in violation of the law, jail time, exclusion from federally funded healthcare programs (such as Medicare and Medicaid), refund of monies improperly received or collected, and three times the amount of improper payment received by the violating entity from Medicare program.

The Self-Disclosure Protocol is intended to give providers an opportunity to voluntarily disclose problematic conduct that resulted in a loss to the government and would likely result in a civil monetary penalty, or worse, if it was discovered through an investigation or by other means. In return for voluntarily disclosing the conduct in good faith, the government gives providers a discount on the penalty they pay, lessens the liability of the provider, and, often, the provider will not be required to admit any wrongdoing or liability. In other words, self-disclosure gives persons the opportunity to avoid the costs and disruptions associated with a Government-directed investigation and criminal, civil or administrative litigation. All healthcare practitioners and entities should remain vigilant of potential violations to the AKS and Stark Laws. If you believe you may have inadvertently violated one or both of these laws, it is recommended you submit Self-Disclosure to mitigate any potential liability. Self-disclosure of only Stark Law violations

can be made pursuant to the Provider Self-Disclosure Protocol, located [here](#). Self-disclosure of AKS, or both AKS and Stark Law, violations can be made pursuant to the Health Care Fraud Self-Disclosure Protocol, located [here](#).

If you are concerned about potential violations or liability under either the AKS or Stark Law, or have any additional questions, contact [Vasilios J. Kalogredis](mailto:Vasilios.J.Kalogredis@lambmcerlane.com), Esq. at [bkalogredis@lambmcerlane.com](mailto:bkalogredis@lambmcerlane.com) or 610-701-4402 or [Sonal Parekh](mailto:Sonal.Parekh@lambmcerlane.com), Esq. at [sparekh@lambmcerlane.com](mailto:sparekh@lambmcerlane.com) or 610-701-4416.

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