

# Responding to Suspected Violations of the Stark Law That Do Not Implicate the Anti- Kickback Statute

## ROWAN UNIVERSITY POLICY

**Title:** Responding to Suspected Violations of the Stark Law That Do Not Implicate the Anti-Kickback Statute

**Subject:** Office of Compliance & Corporate Integrity (OCCI)

**Policy No:** OCCI:2013:C09

**Applies:** RowanSOM

**Issuing Authority:** Rowan President & RowanSOM Dean

**Responsible Officer:** Chief Audit, Compliance & Privacy Officer; Rowan General Counsel

**Adopted:** 07/01/2013

**Last Revision:** 01/26/2021

**Last Reviewed:** 01/26/2021

### I. PURPOSE

To ensure that the Related Healthcare Entities follow the Centers for Medicare and Medicaid Services' (CMS) Voluntary Self-Referral Disclosure Protocol (SRDP) when appropriate.

### II. ACCOUNTABILITY

Under the direction of the President, the Dean, General Counsel and the Chief Audit, Compliance & Privacy Officer shall ensure compliance with this policy. This policy applies to and should be read by employees of schools, departments and units that are a part of RowanSOM as well as employees of other departments that bill federal or state programs for healthcare goods or services ("Related Healthcare Entity" or "Related Healthcare Entities."). Employees of other University departments that support the Related Healthcare Entities in contracting for goods and services, including but not limited to Finance, University Procurement and the Office of the Senior Vice President and General Counsel, should also read this policy.

### III. APPLICABILITY

RowanSOM units and departments that bill federal or state programs for healthcare goods or services ("Related Healthcare Entity" or "Related Healthcare Entities") shall, when appropriate, follow the CMS Voluntary Self-Referral Disclosure Protocol (SRDP) for reporting to CMS suspected violations of the federal Stark law as set forth in this policy.

### IV. REFERENCES

1. Rowan University Voluntary Compliance Plan (VCP) effective September 26, 2014
2. [CMS Voluntary Self-Referral Disclosure Protocol](#) OMB CONTROL NUMBER: 0938-1106
3. The Medicare and Medicaid Patient Protection Act of 1987, as amended, 42 U.S.C. §1320a-7b (the "Anti-kickback Statute"),
4. Stark Exceptions, 42 CFR §§ 411.350 – 411.389
5. Stark Law Section 1877 of the Social Security Act 42 U.S.C. 1395
6. Patient Protection and Affordable Care Act (the Affordable Care Act) (Publ. L. 111-148) F
7. Focus Arrangement Database
8. General Statement on Agreements with Referral Sources
9. Fair Market Valuation
10. Professional Services Policy
11. Contracts & Purchasing Policy

12. State College Contracts Law N.J.S.A. 18A:64 and N.J.S.A. 18A-64-65
13. Engagement and Payment of Professional Services Provider Policy
14. Rowan University Code of Conduct
15. State Uniform Ethics Code

## **V. POLICY**

As recommended by CMS, once it is determined by RowanSOM that an alleged violation of the Stark Law has occurred and it wishes to report this alleged violation under the SRDP, the Chief Audit, Compliance & Privacy Officer, as the designated responsible party to ensure self-disclosure, shall obtain and report the following information to CMS:

1. A statement describing why RowanSOM believes a violation of the Stark Law may have occurred, including a complete legal analysis of the application of the Stark Law to the conduct related to the alleged violation, as well as any self-referral exception that may apply to the conduct;
2. Describe the circumstances under which the disclosed matter was discovered, as well as, any immediate corrective action which has been taken to prevent the continuation of this alleged violation and/or any potential future violations;
3. Identifying information, including the name, address, national provider identification numbers, CMS Certification Number and Tax Identification Number of the disclosing RowanSOM entity;
4. A statement identifying whether the disclosing RowanSOM entity has a history of similar conduct or has any prior enforcement actions against it;
5. An indication of whether the disclosing RowanSOM entity has knowledge that the matter is under current inquiry by a government agency or contractor;
6. A description of the nature of the matter being disclosed, including the type of financial relationship(s), the parties involved, the specific time periods of potential noncompliance, the circumstances under which the disclosed matter was discovered, the type of designated health service claims at issue, the type of transaction or other conduct at issue and the names of individuals and entities believed to be implicated, along with an explanation of their roles;
7. A financial analysis, that states the amount that is actually or potentially due; describe the methodology for calculating the amount due; and summarize the auditing activity and documents upon which RowanSOM relied in calculating the total amount potentially due, itemized by year, including the "look back" period, (i.e. the time during which RowanSOM entity did not appear to be in Stark compliance.);
8. The steps RowanSOM has taken to refund any applicable claims as directed by the VCP;
9. A statement from the Chief Audit, Compliance & Privacy Officer certifying that the information provided is true and based on a good faith effort to resolve liability under the Stark law; and
10. The steps RowanSOM will be taking to make disclosures under the SRDP, both electronically and by mail.

## **VI. NON-COMPLIANCE AND SANCTIONS**

Any individual who violates this policy shall be subject to discipline up to and including dismissal from the University in accordance with their union and University rules. Civil and criminal penalties may be applied accordingly. Violations of this policy may require retraining and be reviewed with employee during the annual appraisal process. The Deans of each College, Vice Presidents, and University President, with the assistance of the Department of Human Resources, will enforce the sanctions appropriately and consistently to all violators regardless of job titles or level within the University and in accordance with bargaining agreements for represented employees. Any sanction costs or fines will be borne by the Department and the Department Chair or VP will determine how these funds will be assigned.

By Direction of the President:

**Signature on file**

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Chief Audit, Compliance and Privacy Officer