
HOUSE 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
31 the physician or an immediate family member has a
32 financial relationship;



- 1 (2) Prohibits a subject entity from presenting or causing
- 2 to be presented claims to Medicare, or billing another
- 3 individual, entity, or third party payer, for those
- 4 improperly referred services; and
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- 6 (3) Establishes a number of specific exceptions and grants
- 7 the Secretary of the United States Department of
- 8 Health and Human Services the authority to create by
- 9 rule exceptions for financial relationships that do
- 10 not pose a risk for program or patient abuse; and
- 11

12 WHEREAS, the Patient Protection and Affordable Care Act,
 13 which was signed into law on March 23, 2010, amends the Stark
 14 Law in several areas by:

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- 16 (1) Adding a new requirement to the in-office ancillary
- 17 services exception for referrals of certain diagnostic
- 18 imaging services;
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- 20 (2) Substantially limiting the scope of the whole-hospital
- 21 exception permitting referrals to hospitals with which
- 22 the referring physician has a financial relationship;
- 23 and
- 24
- 25 (3) Requiring the United States Department of Health and
- 26 Human Services, together with the Office of the
- 27 Inspector General of the United States Department of
- 28 Health and Human Services, to establish a protocol for
- 29 health care providers to self-disclose actual or
- 30 potential violations of the Stark Law; now, therefore,
- 31

32 BE IT RESOLVED by the House of Representatives of the
 33 Twenty-sixth Legislature of the State of Hawaii, Regular Session
 34 of 2012, that the United States Office of the Attorney General;
 35 United States Department of Health and Human Services; United
 36 States Federal Trade Commission; United States Securities and
 37 Exchange Commission; United States Internal Revenue Service;
 38 State of Hawaii Office of the Attorney General; State of Hawaii
 39 Department of Health; and State of Hawaii Department of Human
 40 Services, are urged to enforce the Stark Law to the full extent
 41 of their statutory and regulatory authority to do so; and



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

Calvin K. Y. King
(By Request)

FEB 27 2012

