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On September 5, 2007, Centers for Medicare & Medicaid Services (CMS) published in the Federal Register a final rule entitled "Medicare Program; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships (Phase III)". This is commonly called "Stark III", as it is an extension of Stark I and Stark II, which set limits on self-dealing and kickbacks with respect to treatment of Medicare and Medicaid patients. Stark III will become effective December 4, 2007. The full text of the final rule is available at:

<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-4252.pdf>

CMS posts information on self-referral issues at: <http://www.cms.hhs.gov/PhysicianSelfReferral/>

The following explanatory excerpts are quoted from CMS' press release of 8/27/07:

"The rule does not establish any new exceptions to the self-referral prohibition, but rather makes certain refinements that could permit or, in some cases, require restructuring of some existing arrangements, CMS officials explained.

Based on public comments on the Phase II rule, this final regulation includes the following actions:

- * Provides enhanced flexibility in structuring non-abusive compensation arrangements. For example, the rules regarding physician recruitment and retention payments are expanded to permit recruitment of more physicians into extended areas when needed.

- * Provides relief for inadvertent violations of the self-referral prohibition under certain circumstances. For example, the rules permit parties that inadvertently exceed the limit on non-monetary compensation to continue to satisfy the requirements of the exception if the excess non-monetary compensation did not exceed 50 percent of the permitted amount and is repaid within 180 days of its receipt or the end of the calendar year, whichever is earlier.

- * Reduces the regulatory burden for compliance with certain exceptions. For example, the Phase III final rule eliminates the requirement that entities providing professional courtesy provide written notice to an insurer of a reduction of any coinsurance obligation.

- * Clarifies the agency's interpretation of existing regulations. For example, the rule clarifies which provisions in office space and equipment lease agreements may be amended during the initial and subsequent terms of the agreements."

David Kailin, Ph.D., M.P.H., L.Ac. is widely regarded as the leading authority on CAM-related federal regulations. He is the author of *Quality In Complementary & Alternative Medicine* (2006, CMS Press). Dr. Kailin provides consulting services on quality improvement and regulatory issues, and for integrative medicine programs. More information is available at <http://www.convergentmedical.com>