

# ATHLETIC TRAINING CONTRACTING: WHAT YOU NEED TO KNOW ABOUT REFERRAL LEGISLATION

Athletic trainers applying for services where an outreach or contract model is employed should be aware of referral legislation and ask relevant questions during the interview process.

## THE PURPOSE OF THIS DOCUMENT IS TO EDUCATE ATHLETIC TRAINERS REGARDING:

- The definition of a kickback
- Existing legislation to prevent fraudulent referral practices
- Associated “safe harbors”
- Applicability to the athletic training profession

**Kickback:** Hidden financial arrangements between physicians and hospitals or other health care providers or companies.

- Prevalent in health care.
- In most instances are illegal.
- Even if there is a lawful basis for a payment, the financial arrangement may still be fraudulent if one purpose of the payment is to influence a physician or other health care provider to use the company’s products or services.
- Health care providers are supposed to decide on the most appropriate treatment for their patients without consideration of their own financial interests.

## PREVENTION OF FRAUDULENT PRACTICES

**Anti-Kickback Statute:** Prevents health care providers, including athletic trainers, from offering, paying, soliciting or receiving anything of value to induce or reward referrals.

- It is an anti-corruption statute, designed to protect federal health care program beneficiaries from the influence of money on referral decisions.
- When health care providers are offered financial incentives to use the company’s products or services, for which payment may be made under Medicare, Medicaid or other federally funded health care programs, they are committing fraud.

**Stark Law:** Pertains only to physicians for services related to Medicare beneficiaries, and therefore do not apply to athletic trainers.

**Safe Harbors:** Exempt certain referral arrangements from its prohibitions.

- Legal requirements associated with these “safe harbors” can be complex and technical.
- Athletic trainers should consider retaining counsel prior to agreeing to a proposed referral or payment arrangement to determine whether it potentially violates the Anti-Kickback Statute and/or falls within a “safe harbor.”

## POSSIBLE EXAMPLES OF ANTI-KICKBACK VIOLATIONS IN ATHLETIC TRAINING CONTRACTING

- XYZ Hospital is your employer, and you are assigned to ABC High School. Your salary, raises or performance bonus are tied directly or indirectly to the number of X-rays, lab tests, or procedures ordered at the hospital.
- 123 Rehab Clinic is your employer, and you are assigned to LMNO Industrial Plant. In order to renew your contract each year, 123 Rehab Clinic requires you to refer a certain number of patients to the clinic per month, even if you could treat them on-site.

### SOURCES:

[oig.hhs.gov/compliance/provider-compliance-training/files/StarkandAKSChartHandout508.pdf](https://oig.hhs.gov/compliance/provider-compliance-training/files/StarkandAKSChartHandout508.pdf)

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