GUIDE TO
Innovative Practice Models

Understanding the Law

Get an overview of the many laws that apply to innovative practice models.

This is the second of seven sections in the Guide to Innovative Practice Models.
To access other sections or the full guide, visit apapracticecentral.org.

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Understanding the Law

As you move from solo or small practice into innovative practice models, the laws applying to you become more complex. And the penalties for violations can be harsh, including hefty fines and even prison time. Before you begin engaging with other professionals, you should seek advice from an experienced health care attorney.

Remember, investing in prevention is far less expensive than dealing with problems.

You should familiarize yourself with several laws:

- **Fee-splitting law.** It’s inappropriate to give or accept fees or other forms of compensation for patient referrals. It’s not just money that can get you in trouble. Gift cards, payment for things and other forms of remuneration are also illegal. Many states also have laws prohibiting referral fees. Such fees are also a violation of APA’s Ethics Code.

- **Anti-kickback statute.** This law prohibits offering, paying, soliciting or receiving kickbacks or other compensation for health services reimbursed by federal health care programs, including Medicare, Medicaid and TRICARE. While bribes and rebates are the obvious examples, other violations are less obvious. Giving gift cards, tickets to shows, or even t-shirts to clients or referral sources can also land you in trouble. So can offering “lunch and learn” sessions for physicians or other providers if you do it more than once or twice a year or exceed a specific per-participant dollar amount. And while you may waive co-pays or deductibles on a case-by-case basis for patients with financial difficulties, routinely doing so or advertising such waivers are also no-nos. There can be both civil and criminal penalties for violations.

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- **Stark Law.** Also known as the physician self-referral law, the Stark Law prohibits – with a few exceptions – physicians from making referrals (for certain specified health services, which are covered by Medicare) to entities in which they or family members have a financial interest. While the law doesn’t apply directly to psychologists, it does apply to psychiatrists who are referring patients to psychologists and to practices that include psychiatrists.

- **Corporate practice of medicine laws.** Some states have laws prohibiting general corporations (as opposed to professional corporations) from employing psychologists.

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*Innovative Practice Models (IPM), formerly referred to as Alternative Practice Models, is now being used to avoid confusion with Alternative Payment Models.*
Some prohibit general corporations from employing psychologists or physicians but allow other kinds of practitioners. States vary widely in what they allow. Even within states, there may be confusion, with departments of health, boards of medicine and boards of psychology unclear about how each enforces the law. Although there may be exceptions for hospitals or health maintenance organizations, these laws frequently require licensed professionals to own the corporation. In almost every state, these laws also require that professionals—not the general corporation—have the ultimate authority over decisions about appropriate tests, the number of patients who can be seen in a given period of time, advertising, rates and contracts with payers.

- **State laws.** States may have their own self-referral, fee-splitting, false claims and other laws in addition to the federal versions. Consult with a health care attorney knowledgeable about laws in your state to review what additional laws may apply to you.

- **Fraud and abuse.** Multiple laws target health care fraud and abuse. The False Claims Act, for example, targets providers who bill for services more expensive than what they actually provided, fail to repay overpayments within a set period of time or otherwise attempt to defraud the government. The Health Insurance Portability and Accountability Act (HIPAA) also has fraud provisions. Multiple federal agencies, third-party payers, even patients or former employees can raise concerns about fraud and abuse. If you’re worried that something is a violation, it probably is.

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**Please note:** Legal issues are complex and highly fact specific and laws vary by jurisdiction. APA Practice Organization staff, consultants and speakers cannot provide legal advice. The information provided in this toolkit is an abbreviated compilation of several workshops and does not constitute legal advice. It should not be used as a substitute for obtaining personal legal advice prior to making personal decisions. Those needing legal advice should contact an experienced attorney licensed in your jurisdiction.