

Executive Compensation Traps That Keep Catching Health Systems

June 9, 2026

PRACTICES Employee Benefits and Executive Compensation

When establishing compensation for its workforce, healthcare organizations must not only closely scrutinize physician clinical compensation but should apply the same scrutiny to executive pay arrangements. A failure to carefully review non-physician executive pay creates meaningful exposure under fraud and abuse laws, including the federal Stark Law (“**Stark**”), a strict liability statute generally prohibiting physician referrals for designated health services reimbursed by Medicare to entities with which they (or their family members) have a financial relationship, and the broader federal Anti-Kickback Statute (“**AKS**”), which generally prohibits knowingly offering or receiving anything of value to induce or reward referrals for federally reimbursed healthcare programs. Mistakes are often inadvertent but can result in significant fines, civil penalties, and even exclusion from federal healthcare programs.

Executives holding dual clinical and administrative roles, or receiving incentives tied to service line growth, may need fair market value support, commercial reasonableness analysis, and assurance that pay is not tied to referral volume or value. Performance bonuses linked to profitability or revenue growth should be analyzed closely; tying incentives to quality and compliance metrics can mitigate risk but must be carefully structured.

To reduce exposure, advisors should (i) clearly document executive duties, (ii) partner with healthcare regulatory counsel to structure incentive pay, (iii) ensure appropriate fair market value and commercial reasonableness support, and (iv) draft agreements with regulatory scrutiny in mind. Early coordination with compliance teams is essential, as addressing issues upfront is far easier than remediating them later.