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\$24 million settlement resolves False Claims and Stark Law violations involving improper physician arrangements

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The Department of Justice (DOJ) recently [announced](#) that Montana's Kalispell Regional Healthcare System (KRH) and six subsidiaries and related entities agreed to pay \$24 million to resolve allegations that they violated the False Claims Act, Stark Law and Anti-Kickback Statute. The settlement resolved two separate whistleblower lawsuits filed by KRH Physician Network's former CFO.

The first lawsuit, filed in 2016, alleged that KRH:

- "[E]ngaged in a scheme to pay improper compensation to certain employed physicians to reward or induce them to refer patients, including Medicare patients, to [KRH]."
- "[E]xcessively compensated specialists who are more profitable in producing ancillary hospital revenues." The more than 60 specialists involved in the lawsuit included orthopedic surgeons, general surgeons, oncology surgeons, neurosurgeons, gastroenterologists and cardiologists.
- Entered into compensation arrangements that paid these specialists at or above the equivalent of the MGMA national 90th percentile compensation

benchmark based on the historical and projected value of referrals from each physician to KRH. The lawsuit alleges that many of the specialists had wRVUs below the national 25th percentile.

- Paid 47 physicians for “director” services but received documentation from only three that supported the fair market value of that compensation.
- Tracked and monitored “contribution margins” (i.e., hospital profits from referrals by each physician) and used this data in financial strategy, physician compensation and physician meetings.

The second lawsuit, filed in 2018, alleged that KRH:

- Through its related entities and at least 50 physician-investors, entered into an illegal investment arrangement related to HealthCenter, a general acute care hospital located on the KRH campus. The arrangement financially incentivized the physician-investors to make referrals to HealthCenter, annually generating “significant distributions of profit from HealthCenter” to physicians. Additionally, KRH provided debt collection, financial, operational support and other administrative services to HealthCenter at below fair market value cost in order to increase profits to the physician-investors.
- Violated the Stark Law by paying five HealthCenter-employed gynecological surgeons in excess of fair market value. All five produced wRVUs near or below the national 10th percentile, but four of the surgeons were paid cash compensation in excess of the national 90th percentile, and the fifth surgeon was paid cash compensation in excess of the national 75th percentile. According to the complaint, the HealthCenter CEO said the financial losses from the surgeons’ excessive compensation were acceptable, because the revenues from their referrals more than offset the losses.

Under the terms of the settlement agreement, KRH will pay the \$24 million settlement amount over six years. The whistleblower’s share of the settlement will be almost \$5.5 million. In addition to the \$24 million settlement, KRH, HealthCenter and two additional related entities entered into a five-year [corporate integrity agreement](#) with the OIG.