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SPECIAL BULLETIN

July 2009

***BEWARE: PROPOSALS TO ASSIST PHYSICIANS
IN ACQUIRING EMR SOFTWARE MAY BE ILLEGAL!!!***

This firm has become aware of situations in which clinical laboratories are approaching physician practices offering to pay up to eighty-five percent (85%) of the practice's cost to acquire electronic medical records ("EMR") software in exchange for the practice selecting the clinical laboratory as its primary laboratory. Many physician practices believe that such proposal is legally permissible since so many clinical laboratories are allegedly approaching the physician practices.

Such an arrangement may be a violation of the Federal Anti-Kickback Statute set forth at 42 U.S.C.A. 1320a-7b(b) and the Federal Stark Law set forth at 42 U.S.C.A. §1395nn. Violations of the Federal Anti-Kickback Statute **may result in criminal penalties** and violations of the Federal Stark Law will result in **severe civil penalties** and the repayment of impermissible claims. In addition to the above, there are many other Federal and State laws that may be implemented by the proposed arrangement.

Do not be fooled by assertions that the Safe Harbor under the Anti-Kickback Statute or the Stark exception for donation of EMR software will protect this type of proposed arrangement.

Physician practices are **strongly urged** to contact their health care attorneys to discuss the legal concerns such a situation may create for them prior to receiving any monies, or if they have any arrangement with the clinical laboratory in connection with provision of EMR or are considering the same.

The information provided in this summary is for discussion purposes only and shall not be considered legal advice or legal opinion on any specific facts or circumstances. The contents of this summary and any related information and/or materials are intended solely for general information purposes only. You are urged to consult your own attorney concerning your own situation and any specific legal questions that you may have. You may also contact Michael Schaff or John Murdoch of the law firm of Wilentz, Goldman & Spitzer, P.A. at (732) 636-8000 or via e-mail at mschaff@wilentz.com or jmurdoch@wilentz.com.