

In The News

Allison Nelson Explains How Stark Law, Anti-Kickback Statute Impact Medical Office Lease Concessions to *GlobeSt*

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Allison Nelson explained to *GlobeSt* how the Stark Law and Anti-Kickback Statute impact medical office landlords when seeking rent relief, particularly as more medical practices struggle to remain open during the COVID-19 pandemic. The article elaborated that while medical office landlords might be inclined to provide a break rather than seeing their tenants go out of business, the two federal laws prohibit physician self-referral, and may be applicable when a physician or healthcare practitioner, or an immediate family member of a physician, is leasing or subleasing from another healthcare provider or hospital.

“The [medical office] lease has to be at fair market value, and the parties can’t give concessions to each other or remuneration outside the contract,” Nelson said. “So that’s where you could get into issues with giving rent relief, which could inadvertently be considered a kickback in exchange for referrals of patients between the parties.”

Nelson added there are situations where rent relief may be acceptable. “If the healthcare system just closes down its entire medical office building and bars a tenant from use of the space, that’s probably a pretty easy example of an instance in which a rent concession is allowed. The tenant was denied access, and the whole building was shut down.

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Under The Anti-Kickback Statute, there has to be an intent to induce referrals. So if they are creating consistent policy across the board, it's going to help mitigate that intent to induce referrals.”

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