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Health care providers face substantial legal challenges under the [Affordable Care Act](#) (ACA). Sweeping reforms have created a demand for health care law specialists. As a result, the specialty currently represents the fastest growing law practice in the United States.

The health law field presently exists at the precipice of enormous change. Care providers must manage the legal implications that come with networked electronic health records (EHRs) and payments based on patient outcomes. Problems also arise due to patients traveling solely for specialized treatment, and growing pains attributable to newly merged and acquired health care organizations. These factors and more contribute to increasing litigation involving fraud, insurance disbursements and antitrust laws.

The current environment requires a renewed focus on the part of health lawyers. To perform proficiently, practitioners must understand what is happening in the administrative, [ethical and legislative components](#) of the health care field.

Many organizations have joined forces to compete effectively in the new operating environment. Additionally, disruptive medical innovations, such as biotechnology and treatment research, have created new concerns over ethics and privacy. As such, the responsibilities of health care lawyers have expanded from litigation defense to other areas such as compliance, risk assessment and contracts. The following five laws highlight a few of the most recent and significant game-changing regulations in the health care field.

Emergency Medical Treatment and Active Labor Act (EMTALA)

The Emergency Medical Treatment and Active Labor Act took effect with Congressional sanction in 1986. The law requires care providers to deliver medical services despite the patients' ability to pay. The act outlines specific guidelines for providers that deliver emergency services. If an individual has a medical emergency, such as an injury or active birth, the law obligates caregivers to stabilize the patient and provide treatment up to the point where the client remains stabilized. If the care provider cannot deliver this service, the law mandates that the provider transfer the patient to a capable facility.

The Stark Law

The Stark Law bars care providers from referring a patient to a peer or family member, but does provide for specific exceptions. The act covers payments issued by Medicare and [Medicaid](#) and prohibits claims for such referrals.

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This law applies to civil cases and exposes violators to False Claims Act culpability. The Stark Law encompasses referrals to primary care providers for specific health services, and does not require prosecutors to prove intent for overpayments. However, prosecutors must prove intent for intentional violations involving punitive recovery.

The Anti-Kickback Statute

The Anti-Kickback Statute bars offering, receiving or soliciting assets in return for federally subsidized medical patronage and covers referrals from anyone for any federal service.

Legislators have made limited exceptions to this rule called “voluntary safe harbors.”

Prosecutors must prove that defendants committed an anti-kickback violation willingly and knowingly.

A guilty verdict under this law can result in a fine up to \$25,000 and five-year prison sentence per violation. The law also exposes offenders to civil repercussions such as False Claims Act culpability and a fine up to \$50,000 per offense.

The Health Information Technology for Economic and Clinical Health (HITECH) Act

Legislators created the Health Information Technology for Economic and Clinical Health Act to promote effective technology implementation among care providers. In part, the act addresses privacy and security of electronic health records. The act also reinforces parts of the civil and criminal sections of the Health Insurance Portability and Accountability Act (HIPAA).

HITECH outlines four liability levels, each with increased punitive responses. Offenders who violate the law unknowingly, initially receive the lowest fine and the opportunity to correct the offense in 30 days to avoid fines completely. The minimum penalty increases greatly between each level, with the maximum fine amounting to \$1.5 million.

The Genetic Information Nondiscrimination Act of 2008

Genome sequencing and other scientific developments have enabled researchers to produce incredible medical breakthroughs. While certain gene identifiers do not reveal ethnicity, some genetic traits emerge only among specific ethnic groups.

Workplace discrimination performed by identifying ethnicity through genetic traits occurred so frequently that Congress intervened. As a result, the federal government created the Genetic Information Nondiscrimination Act to prevent employers and insurance agencies from discriminating against individuals based on genetic testing outcomes.

The Genetic Information Nondiscrimination Act forbids health insurance and employment discrimination based on genomic information. The Departments of Labor, Health and Human

Services along with the United States Treasury enforce the act as it applies to genetic information and health insurance.

Health care innovation moves at such a tremendous pace that even the most legally astute care providers have difficulty keeping up with legal issues. While the Affordable Care Act sought to provide coverage for all U.S. citizens, it failed to recognize the legal ramifications of such an environment. As care providers settle in with new payment models, they will demand more health care legal professionals to keep organizations up-to-date and compliant with the law.

To learn to speak the language of health law and distinguish your role as a leader with specialized health care compliance expertise, look to pursue a [Master in Health Law and Policy](#) from Hofstra Law.

Sources:

[Lawyer & Statesman](#)

[U.S. Centers for Medicare & Medicaid Services](#)

[COMPARISON OF THE ANTI-KICKBACK STATUTE AND STARK LAW](#)

[U.S. Department of Health & Human Services](#)

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