

LEASES THAT DO NOT COMPLY WITH HEALTH LAWS CAN PROVE COSTLY - DETROIT MEDICAL CENTER PAID \$30 MILLION IN FINES TO U.S. IN 2011

Hall Render real estate attorneys regularly police our health care clients' real estate contracts, particularly leases, to ensure they comply with applicable health laws. In particular, federal Stark and Anti-Kickback laws. A Michigan nonprofit hospital system's 2011 payment of \$30 million in fines for alleged health law violations demonstrates the potentially high cost of noncompliant leases.

On December 30, 2010, Detroit Medical Center, a Michigan nonprofit corporation that owned and operated 8 hospitals in Detroit, Michigan (the "DMC"), was purchased by Vanguard Healthcare Systems, Inc., a Tennessee for profit corporation. Concurrent with this widely-publicized transaction, DMC agreed to pay \$30 million to the U.S. government (the "U.S.") in early 2011 to settle many claims arising out of DMC's allegedly unlawful business practices. Many of the alleged violations related to the DMC's leases with third parties. The December 31, 2010 Settlement Agreement between the DMC and the U.S. documents the following specific real estate contract violations of health laws:

1. DMC rented office space to a number of physicians without written and executed leases for the entire term.
2. DMC had compensation, lease, or other financial arrangements with a number of physicians who provided services to DMC where the financial relationship may not have been consistent with fair market value and/or may have been commercially unreasonable.
3. DMC provided signage and/or may have provided advertising and biographical material for a number of physicians, on terms that may not have been commercially reasonable, fair market value terms.

The Attachments to the Settlement Agreement reference in detail the questionable leases and the parties to them, publicity the third parties would have undoubtedly preferred to avoid.

The DMC-U.S. settlement is a compelling example of the importance of ensuring that leases between health care enterprises comply with applicable health laws. If you have any questions regarding these issues, please contact one of Hall Render's real estate attorneys.