

A Look at Some Legal Implications of COVID-19 on Healthcare Real Estate

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The healthcare real estate industry finds itself in uncharted waters while grappling with the myriad issues created by the COVID-19 pandemic. Landlords are flooded with requests from tenants for rent relief as healthcare providers are facing unprecedented financial pressure during the COVID-19 crisis.

When evaluating whether to provide any type of relief, landlords must understand the business and financial position of their tenants, as well as the constraints placed on the landlords by their own capital stack. In addition, seemingly boilerplate provisions under the lease agreement (such as force majeure) could play a major role in determining the rights and obligations of the parties in negotiating any potential lease amendment. And in healthcare, the federal Anti-Kickback Statute and Stark Law generally prevent any flexibility if there is a potential for Medicare referrals or other business streams between the landlord and tenant.

This experienced panel will discuss the impact that the COVID-19 pandemic has had on leases and landlord-tenant relationships, including how the Stark Law Blanket Waivers and other regulatory relief can help—or hinder—the situation. Through the discussion, the panel will review creative and practical solutions that suit both parties and comply with the law.

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