Physician Integration and Relationships: Business, Operational and Legal Considerations

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Covered Topics

I. Medical Directorships and Call Coverage Arrangements
II. Dialysis Joint Ventures
III. Clinical Co-Management Relationships
IV. Practice Acquisitions and Leasing
V. Comprehensive ESRD Care Initiative (Renal ACO)
A Spectrum of Physician Integration Strategies

Degree of Integration

Med Director Call Coverage
Joint Venture
Clinical Co-Management
Independent Practice Association
Practice Acquisition or Leasing
Accountable Care Organization/Bundling

Levels of Complexity
Medical Directorship Structure

Dialysis Organization, Hospital or Provider

Physician; Practice or Investment Entity
Medical Directorships: Top 5 Legal Issues

1. Ensuring fair market value compensation
2. Ensuring compliance with expanded scope of duties under Federal Conditions for Coverage
3. Protecting against liability through insurance and indemnification
4. Negotiating appropriate restrictive covenants that protect both the physician and dialysis provider
5. Compliance with Anti-Kickback Statute safe harbors (personal services and management contracts)
Joint Venture Model

Ancillary Agreement:
- Medical Director Agreement
- Space Lease
- Equipment Lease
- Management Contract
- Laboratory Services Agreement
- Product Supply Agreement
Joint Ventures: Legal Planning to Ensure a Successful Partnership

1. Aligning the Pro forma and the Valuation
2. The Letter of Intent (could have, should have, would have...didn’t)
3. Structuring for liability and tax advantage
4. Ensuring a high degree of involvement by physicians in operational decision-making
5. Transferring membership interests
6. Agree upon how to fight over things before there is a dispute
Vascular Access: Management Company Model

1. Lease Space
2. Finance TI
3. Lease Equipment
4. Employ non-physician personnel
5. Provide day to day management services

Management Company

Nephrology Practice 1

Nephrology Practice 2
Vascular Access: Condo Model

NEWCO
1. Lease space
2. Finance TI
3. Lease or Purchase Equipment
4. Employ non-physician personnel (i.e. nurses, technicians)
5. Provide day to day Management Services

Management and Lease Agreement (space, equipment, personnel)

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Practice A
Engage Interventionalist
Bill under/Practice’s name and number

Practice B
Engage Interventionalist
Bill under/Practice’s name and number
Vascular Access: Key Practice Issues

1. Impact of Center on buy-in and buy-out of Practice
2. Physician compensation fairness issues: interventionalist v. nephrology-only partner
3. Payor contracting and education regarding interventional nephrology services
4. Check state self-referral laws
5. Check state ASC laws (usually dependent on level of anesthesia or definition of “surgery”) to ensure VAC qualifies as “extension of Practice”
Clinical Co-Management Relationship Structure

Service Line Owned by Hospital

Common Service Line
- Cardiology
- Ortho
- Imaging
- Cancer

Hospital

Physicians

Service Line Management Company

Management Contract

Fixed and Incentive Comp.

Equity

Finance Committee

Quality Committee
Clinical Co-Management Relationships: Key Pitfalls and Risk Areas

1. Limited applicability across clinical service lines
2. Significant start-up costs (consultancy and legal)
3. No guarantee of financial return for physicians (since pay for performance)
4. The need for these agreements will be reduced as performance improves
5. Setting baselines for performance and incentive-based compensation is key
6. Ultimate governance of management company usually resides with hospital
7. Participation limited to physicians in a position to perform services
8. Increasing regulatory scrutiny, particularly of the gainsharing aspects
9. Easy to stray outside of arrangement structures approved by OIG
Practice Acquisition Structure

**Most Common: Asset Purchase**

- Attempt to limit pre-existing practice liabilities
- Allows the practice owners to retain cash, accounts receivable and certain other assets

![Diagram showing practice acquisition structure](image_url)
Practice Acquisition
Key Issues and Considerations

1. Determination of Acquisition Pricing
2. Employee Physician Compensation
   a. Salary guarantees
   b. Productivity-based models
3. Lost Revenue Streams
   a. Referral Sources
   b. Ancillary Service Revenue
4. Billing and Coding Audits
5. Transition to EMR Systems
6. Issues Regarding Autonomy
7. Transfer of Practice Assets (Leases, Equipment, Employees)
8. Unwind Options
Comprehensive ESRD Care Initiative: ESCO Structure

- **ESRD Seamless Care Organization (ESCO)**
  - **Participant Non-Owners**
  - **Other Medicare provider or supplier, subject to limitations**
  - **Dialysis Facility**
  - **Nephrologist/ Nephrology Group**
Comprehensive ESRD Care Initiative: Key Considerations and Open Issues

1. Difficulty of finding 350 matched eligible beneficiaries in a particular Medicare CBSA
2. Selecting the third participant-owner
3. Expenses associated with forming and managing the ESCO and selection of appropriate IT systems may be significant
4. Creating appropriate financial incentives for non-owner participants may reduce amount of shared savings available for participant-owners
5. Shared savings program creates incentive to select highest cost populations
6. Rebasing of costs makes sustaining shared savings more difficult over time
7. Timing of issuance of ESCO waivers is uncertain
8. Quality measures assessing preventative health, chronic disease management, care coordination and patient safety, patient and caregiver experience and patient quality of life have not been released
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