Due Diligence for Acquisition and Partnerships:

What to Consider When Bringing a Small Practice Into a Large Health System or Academic Medical Center

UK HealthCare
The Power of Advanced Medicine

Background

You work for a large academic health system, ABC. In the last several years, ABC has been trying to expand its rural medicine programs. It has done so by making employment offers and acquiring the practices of a number of rural based physicians within a two hour drive of its primary campus.

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Scenario # 1

Dr. Smith has a solo practice in a small town about 70-miles from ABC. She is well known and respected by ABC faculty, having completed residency training there six years earlier. Dr. Smith moved to this town out of residency, worked for Dr. Jones for three years, and then bought the practice when he retired.

You are tasked with leading the due diligence team on this acquisition.

What documents do you want to review?

1. Billing records
2. All contracts
3. Corporate minutes
4. Personnel files
5. Tax returns
6. All of the above

Who would you interview?

1. No one, the documents speak for themselves.
2. Dr. Smith
3. Dr. Smith and her office manager
4. Dr. Smith, the office manager, other employees and selected patients

You learn that Dr. Smith bought the building in which the practice is located from Dr. Jones. As part of the overall practice purchase, Dr. Smith has allowed Dr. Jones to continue to see a number of his long time patients in the practice building without charge. This is not documented at all, but you learned it in interviews.

How significant is this issue?

1. Very likely, deal killing
2. Somewhat, but manageable
3. Limited, but not worth further discussion
4. None

What other facts would you need to know to asses the risk?

1. None
2. Whether Dr. Jones billed any federal programs for these patients
3. Whether Dr. Jones would enter into a lease with Dr. Smith
4. Both B and C

You learn from your interviews that the current office manager is also Dr. Smith's husband.

Will this be a problem?

1. No
2. Yes, if ABC has an anti-nepotism policy
3. Yes, for many potential reasons

How might you solve such an issue?

1. Condition closing on terminating the office manager.
2. Have the office manager supervised by someone else.
3. Offer the office manager employment somewhere else with ABC.
4. Try to obtain a policy waiver.

Scenario # 2

You are the Compliance Officer for a Health Group, PLLC, a 35-physician multi-specialty practice that has two locations, both in the suburbs of the city in which ABC is located. Health Group has been approached by ABC about becoming a part of its medical staff. The proposal is for ABC to make all eligible physician members of Health Group ABC faculty and for ABC to acquire the assets of Health Group, except for the two buildings in which Health Group practices.

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These two buildings are owned by a separate limited liability company whose members include ten senior physicians practicing with Health Group. ABC students and residents would then begin clinical rotations at the Health Group practice sites.

What are the most significant compliance issues?

1. Whether the combined practices will qualify under the STARK academic medical center exception.
2. Applicability of Conflicts of Interest laws and policies.
3. Training the Health Group physicians on proper billing for services furnished by residents.
4. Reviewing and making certain that current billing practices are the same at ABC and Health Group.

ABC requires its faculty to have all of their research conducted through its Research Foundation. Grants and contracts are assigned by the faculty to Foundation for administration and accounting. Health Group physicians have a number of funded research projects.

What are the most significant compliance issues regarding research?

1. Whether ABC will accept such research projects under its academic research guidelines
2. Whether the Health Group physicians will agree to assign their research to the Foundation
3. Whether the Health Group research projects may be assigned
4. Other?

Health Group has a contract with LAB, a clinical lab company to perform most of its lab work. Under this contract, a LAB employee is based at each of its facilities to collect, secure and transmit samples for analysis. LAB pays no rent to Health Group. LAB employee performs no service for Health Group. This contract was approved by Health Group's outside legal counsel in April 2018. The contract is for three years and can only be terminated by paying a termination fee equal to one year's collection under the contract. ABC has its own lab and does not want to assume the contract.

What should Health Group do if it wants to join with ABC?

1. Pay the termination fee out of its payment for the assets.
2. Try to negotiate an early end to the contract.
3. Claim subsequent illegality if the LAB employee is compensated under any type of incentive arrangement.

Thank you!

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