

Conducting an Internal AKS & Stark Investigation and Managing Resolution Risks

Joseph Hudzik, Esq., Counsel, Latham & Watkins, LLP

Alex Krouse, Esq., Attorney, Parkview Health

Steven W. Ortquist, Partner, Aegis Compliance & Ethics Center, LLP

Smallville Health System

As part of his compliance plan for 2016, Clark the Compliance Officer at Smallville Health System (“SHS”) has conducted an informal review of a sample of physician contractual arrangements. As a result of the review, Clark has identified several issues. While the review was not conducted at the direction of counsel, Clark has made an appointment with his inhouse counsel, Lester Lane, to discussed his findings.



Initial Finding #1 – Medical Director Timesheets

SHS has 28 medical director arrangements with independent community physicians. Clark reviewed timesheets and payments for five of the arrangements and identified that, for two of the five SHS had not received timesheets as required by the medical director agreement. The other three physicians have submitted timesheets, but for two of the three the timesheets appear to be photocopies, with the date on the time sheet being adjusted monthly to reflect the current month's date, but service descriptions and the time recorded by the physicians do not vary from month to month. Each of these time sheets reflects the maximum hours allowed by the medical director agreement – and all five physicians have been paid the maximum allowed by the contracts for each of the last six months.

Weekly Time Sheet

Customer: _____
 Supervisor: _____
 Employer: _____

Shift: Day Night Aro

Work Times

| | Date | Job Description | Start | Break | Finish | Total Hours | Total Norm |
|---------------------|------|-----------------|-------|-------|--------|-------------|------------|
| Monday | | | | | | | |
| Tuesday | | | | | | | |
| Wednesday | | | | | | | |
| Thursday | | | | | | | |
| Friday | | | | | | | |
| Saturday | | | | | | | |
| Sunday | | | | | | | |
| TOTAL HOURS WORKED: | | | | | | | |

Initial Finding #2 – Leases

SHS owns two medical office buildings in which it houses one of its employed primary care groups, and leases space to 11 independent medical practices. The SHS property management office has had significant turn-over in recent years, and Clark the Compliance Officer learns that several of the leases have been expired for periods ranging from 2 months to 3 years. The real estate market in Smallville has been hot, and values for commercial real estate have increased significantly in recent years. The property management department has been attempting to obtain new or renewal leases, but several physician groups have been unwilling to sign because of increased rent rates being requested by the hospital. One physician has had health issues, and is 6 months in arrears on his rent.



Initial Findings of the Internal Review

Dr. Strange is a member of one of SHS's employed primary care groups and is paid on an RVU based productivity model that includes a bonus for RVU production above a pre-determined threshold. Dr. Strange is one of SHS's highest RVU producers. In addition to his employment arrangement, Dr. Strange has multiple independent contractor arrangements with SHS, including two medical directorships, a medical staff leadership agreement, a paid call coverage arrangement, and a consulting agreement to advise on SHS's development of a new risk-sharing arrangement with its physicians. With his multiple arrangements, his earnings in 2016 were \$1.75M.



Questions/Discussion

Joseph Hudzik, Esq., Latham & Watkins, LLP
joseph.hudzik@lw.com (202) 637-1055

Alex Krouse, Esq., Attorney, Parkview Health
alexander.krouse@parkview.com (260) 373-9028

Steven W. Ortquist, Partner, Aegis Compliance & Ethics Center, LLP
sortquist@aegis-compliance.com (312) 285-4850