

# Recruiting Specialty Physicians Through Practice Leasing

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Physicians who generate significant income from procedural or technical/ancillary components of their practice have understandable concerns that an employment relationship with a health system or hospital will not be financially attractive. They realize that employment could mean losing the income from their usually profitable procedures and technical components, and so are uninterested in having their practices acquired.

These physicians may also resist having their practice acquired because they:

- Want to retain control of the way that both the professional and ancillary/technical components of their practice are delivered
- Prefer to distribute money within the practice in their own way
- Want to have the pieces needed to re-create a profitable independent practice, including the expensive ancillary/technical components, if employment doesn't work out for them and they want to unwind the transaction.



Cardiologists represent one group of specialists impacted by these factors. Their practices often provide technical procedures, including echocardiography, nuclear cardiology, and stress testing. Other specialties in similar situations include hematology-oncologists who provide infusion treatment, orthopedists with physical therapy and/or imaging services, and any practice with intensive imaging capabilities.

Your organization may be better able to attract these "acquisition-resistant" physician practices through practice leasing arrangements.

Leasing provides a vehicle that can respond to both regulatory constraints and physician concerns. There are three possible approaches that involve some form of practice leasing:

- Lease professional services only
- Lease technical components only
- Lease both professional services and technical resources

### **PROFESSIONAL SERVICES LEASE**

In a professional services lease, a hospital or health system leases physicians from a practice. The hospital pays the practice for the professional services they provide. The hospital bills and collects, and retains all revenues from patients and payers. The system or hospital must provide the non-physician resources necessary for the physicians to provide their services—space, support staff, equipment, supplies, etc. —which may be provided directly by the hospital or through the Practice Resource Lease described below.

This can be attractive to physicians because:

- They can “try out” working for the hospital without committing to permanent employment
- The practice has the flexibility to divide the income as it sees fit

### **PRACTICE RESOURCES LEASE**

In a practice resources lease, a hospital or health system may lease the practice resources—space, support staff, equipment, supplies, etc.—of a practice whose physicians they are employing, or for whom they have a professional services lease. These resources may be used to support professional and/or technical services. The health system or hospital bills and collects for the technical services. In these transactions, the assets can remain in place, in the event the physicians want to roll-back the transaction.

Alternatively, the resources may be acquired by the hospital or restructured into a joint venture, which may be jointly owned by the hospital and physicians. The joint venture could then lease certain resources to the hospital to support the professional services, provide the technical ancillary services directly, or lease the resources to the hospital for the provision of the technical ancillary services. In the latter case, the physicians can continue to earn profits associated from the ancillary services activities.

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All leases and professional service agreements must conform to fair market value requirements, so a valuation is needed. Take care to assure that professional service leases and practice resources leases conform to Stark and Anti-Kickback requirements. ●