

Comprehensive Compliance-Focused Processes for Physician Arrangements

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Most health systems have numerous physician arrangements, each of which has the potential to expose the organization to regulatory risk. Protection from such exposure can be costly, so healthcare organizations must consider alternative approaches.

By putting in place a consistent, structured process for development and ongoing management of physician arrangements, health systems can minimize regulatory risk and establish a defensible position against regulatory action.



The compliance framework should establish standards and processes for creating contracts and should specify the contract approval process under different circumstances. Standards should include templates for requesting a contract, required analysis, documentation of fair market value (FMV) and commercial reasonableness including the prohibition on taking into account the volume and value of referrals, and template(s) for the contracts themselves, which may vary by type of arrangement.

Defined processes should include who, or what committee, is responsible for:

- Initiating a request for a contract
- Developing compliant contract terms, including completion of FMV/reasonableness analysis and documentation
- Reviewing the arrangement for technical Stark compliance
- Approving the arrangement

The membership of any committees involved, how committee members are selected, and the terms for which they serve (if applicable) need to be documented. A simple flow chart should specify paper flow between each step of the process and the various approving bodies.

Typically, these policies also include a mechanism for assessing the risk associated with individual arrangements. These often take the form of threshold guidelines to evaluate proposed compensation, triaging arrangements into potential categories of review by compensation level.

There is, however, more to determining relative risk than compensation percentile. While payment above the 75th percentile, for example, may trigger a review if presented on its own, that same level of payment with RVUs or professional collections may not. Policies often contain other thresholds in addition to those for total compensation, such as thresholds for a certain percentage increase in compensation, or some combination of absolute percentiles with percentage increases.

The process also should specify the circumstances under which contracts need to be reviewed by the compensation committee of the board, or the management compensation committee, depending on the identified approval authority. This review may be based on a threshold amount, such as compensation of over \$1 million/year on a single contract or compensation over an identified percentile.

In summary, an organization that maintains comprehensive compensation policies—including consistent standards for requesting, approving, structuring, documenting, and monitoring financial arrangements between its employed and contracted physicians—will enhance the defensibility of its financial arrangements. ●

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