

OUR PRACTICE

Hospital/Physicians Joint Ventures

One health care delivery system forms a business alliance with local physicians to jointly own and operate a new ambulatory surgery center. Another forms a joint venture with hospital-physician ownership for co-management of a hospital clinical service line. Yet another health care delivery system organizes a not-for-profit corporation through which the hospital, physicians and other health care providers will participate in the Medicare Shared Savings Program administered by the Centers for Medicare and Medicaid Services (CMS) and created under the Affordable Care Act.

Such is the new world of medicine. Health care delivery systems and physicians are embarking on myriad ventures aimed at clinical integration and aligning financial interests – and must be careful not to run afoul of regulations and laws such as Stark, the federal Anti-Kickback Statute and antitrust laws. These arrangements present numerous legal hurdles and entail risk, requiring knowledgeable attorneys to carefully navigate the health care industry's complex matrix of related statutes and regulations. Every venture must be carefully scrutinized.

In this climate, experience matters deeply. Few law firms can match the knowledge and skill of Baker Donelson's health law attorneys in addressing the complicated legal, business, and regulatory questions raised by these new hospital-physician ventures.

Many causes are driving these trends, led by fundamental economics. The current "fee for service" health care economy is based on the number of procedures or services performed by both hospitals and physicians. Especially with the aging of the Baby Boomer generation, there simply are not enough funds available to sustain this system. Starting with the traditional Medicare program, which many regard as the last bastion of pure indemnity insurance, many health care payors are shifting their sites to "coordinated care" payment models under which there is shared payment risk. These efforts, including the Medicare Shared Savings Program, are forcing traditionally separate parts of the health care economy into integrated economic models.

Fading are the days of tension, and even hostility, between hospitals and their medical staff physicians. Rising in their place is an integration of clinical services and alignment of financial interests through legal structures like co-management agreements, in which hospitals contract with physicians to provide a particular clinical service line, such as cardiac services or orthopedics, and pay both base compensation for specific required services and incentive compensation if stated objectives are met. Absent such alliances, it will be increasingly difficult for health care providers to compete.

Our attorneys understand how to help clients on all sides of this equation maximize the opportunities and minimize the risks inherent in these relationships.

Representative Matters

- Represented a regional nonprofit health system in structuring three whole-hospital joint ventures to build and operate new hospitals, including private placement syndications to contemplated physician medical staff members, with transaction values and capital investments of approximately \$100 million each.
- Represented Accountable Care Organization in a combination \$3,000,000 investment and infrastructure technology licensing agreement.

- Represented nonprofit hospital in structuring and consummating a physician joint venture serve as a freestanding radiation oncology clinic.
- Represented regional nonprofit health system in structuring and consummating a physician joint venture to form an independent diagnostic imaging facility (IDTF), including regulatory and compliance advice with respect to meeting the conditions of participation, and a related private offering and syndication of investment units to community physicians.
- Represented thirty cardiologists from thirteen medical practices in organizing a limited liability company that entered into a clinical service line co-management agreement with a health care delivery system.
- Represented an orthopedist group regarding clinical service line co-management agreement with a health care delivery system and acquisition of ownership interests in a physician-hospital joint venture ambulatory surgery center.
- Represented a large multi-specialty physician clinic with more than 100 physicians in an integration transaction with a regional nonprofit health system.
- Represented a regional nonprofit health system in its purchases of numerous primary care and specialist physician practices and structuring fair market value wRVU-based and collections based compensation models, including physicians in family medicine, internal medicine, gastroenterology, cardiology, oncology, pulmonology, pediatrics and orthopedic surgery and a total exceeding 100 employed physicians.
- Arbitrated physician recruitment contract disputes between hospitals and recruited physicians.