



Physician-Hospital Employment Agreements

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The enactment of the federal Affordable Care Act, and subsequent upholding of the act by the US Supreme Court, is ushering in some major changes for the American health care industry. Many of the changes create incentives for team-approach, results-oriented care. This, along with the already burdensome necessity of obtaining reimbursements from insurance companies, Medicaid, and Medicare, are contributing to the growth of employment relationships between hospitals and physicians. Thus, both hospitals and physicians are faced with a relatively new task: entering into employment agreements which are suitable in the hospital-physician context. Many physicians are accustomed to running their own practices and operating in hospitals as independent contractors, while the traditional hospital structure treats the physician akin to a revenue-generating client. Thus, drafting an employment agreement that successfully navigates a transition into an employer-employee relationship will be crucial to the industry's adaptation to the reforms ushered in by the Affordable Care Act. When agreeing upon an employment contract, both hospitals and physicians should try to keep in mind that employment agreements are not one-size-fits-all. Rather, an employment contract shall be negotiated to suit the needs and expectations of both parties. Particular consideration should be given to the following provisions:

Term and Termination: In Nevada, all employees are hired on an at-will basis and may be terminated at any time for any reason (other than for a discriminatory reason). Physicians who are hired as employees are no different, although in practice a set term of employment is often specified, with set reasons why the employment relationship may be terminated early (i.e. terminated for cause). These provisions should be reviewed carefully, particularly as they may impact a physician's compensation, severance package, or bonus structure. And in general, termination provisions written in certain and definite terms should be favored over provisions that allow for significant discretion by either party. (article continued - page 2)

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