

Mega-Groups

The current marketplace has shown an emerging trend whereby small physician practices can no longer sustain their profits unless they are willing to take advantage of economic efficiencies. With the implementation of more regulations and the decline in reimbursement rates, two popular ways for physicians to maintain their income level are to: (1) “sell” their practice to a hospital and become an employee; or (2) merge with other physician practices and create a larger group practice (sometimes referred to as “Mega-Groups” or “Super Groups”).

Both of these solutions have their benefits, but the main difference between them is autonomy. By avoiding the sale of a practice to a hospital, physicians are able to remain their own boss. Furthermore, the physicians are able to grow their practice and increase revenue. However, with a sale to a hospital, each physician is limited to a salary which does not increase based on the volume or value of services performed. In addition, physicians can add, withdrawal, or buy-out provisions to the Mega-Group organizational documents, which allow the physicians to receive a payment when they want to retire from the practice of medicine.

Mega-Group Benefits

Some physicians know from the start that they have no desire to be an employee of a hospital but do not see how merging with a larger physician group will benefit their practice.

However, there are important benefits that a Mega-Group can provide compared to a smaller physician practice.

One of the most important benefits of the Mega-Group is the increased negotiation leverage. By merging with other physicians, the Mega-Group is able to negotiate better rates and terms with lenders, vendors, and insurance providers. This increased leverage allows for decreased expenses and increased revenue. In addition, when physicians get guidance from professionals knowledgeable in such health care transactions, the Mega-Group can realize efficiencies in overhead costs. For example, a Mega-Group will only need to purchase one electronic medical records system, and the cost will be shared by all of the physician owners of the Mega-Group.

Stark Law Compliance

Federal and New York State physician self-referral laws (“Stark Laws”) generally prohibit a physician from referring patients to an entity for the provision of certain services (“Designated Health Services”) if the referring physician has a financial relationship with such entity, unless a legal exception applies. The In-Office Ancillary Exception allows a physician to refer to other physicians within a “group practice” if certain conditions are met. Therefore, by creating a Mega-Group, physicians can expand the services provided by their current practice and share in the revenue generated by the Designated Health Services.

However, a physician should not be compensated based on the volume or value of their referrals. The Stark Laws are strict liability prohibitions, which means that a physician can violate these laws and be subject to penalties even if they do not intend to do so.

Have Questions? Ask Our Attorneys

The formation of a Mega-Group and a sale to a hospital are transactions that require guidance from experts knowledgeable in the health care field. We recommend discussing these issues with a team of attorneys and accountants to ensure that the transaction does not run afoul of the Stark Laws or other similar fraud and abuse laws, such as the Anti-Kickback statute, and that they are structured in the most advantageous way from a tax perspective.