

AHLA

American Health Lawyers Association
***Sharing the Load: Maximizing the Working
Relationship Between Management, Finance, Legal,
Compliance, Outside Counsel and Appraiser in the
Physician Compensation Process***

Wednesday, February 7, 2018|2:00- 3:30 pm Eastern

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About the Webinar Series

This four-part webinar series brings together top legal and valuation experts to discuss the collision between physician compensation arrangements, fair market value (“**FMV**”), commercial reasonableness (“**CR**”) and process.

- **Session I: December 6, 2017** Fair Market Value and Commercial Reasonableness 101: Distinguishing Between Legal Requirements, Developing Best Practices and Dogma
- **Session II: January 17, 2018** Appropriate Oversight, Meddling or Both? Delving into the Expanding Role of Boards and Compensation Committees in Physician Compensation Governance
- **Session III: February 7, 2018** Sharing the Load: Maximizing the Working Relationship Between Management, Finance, Legal, Compliance, Outside Counsel and Appraiser in the Physician Compensation Process
- **Session IV: March 7, 2018** Right Sizing Your Fair Market Value and Commercial Reasonableness Process: Finding an Approach that Aligns with Industry Guidance and Developing Best Practices, and What Works for You

About Today's Webinar

This is Part III of the webinar series. Today our panel will:

- Discuss the development of best practices in analyzing physician compensation arrangements
- Provide an overview of how various departments such as legal, finance, compliance, operations, and outside technical advisors can work together
- Address creating a framework for analyzing physician transactions in an efficient and effective manner

General Disclaimer

- This program is a general discussion of legal and business issues; it should not be relied upon as legal, valuation, business, financial, or other professional advice.
- The panelists will provide their own views and not those of their current or past employers or clients.
- The slides are the result of the collaboration of the panelists and reflect their individual and collective thoughts and observations.
- This presentation may include a discussion of hypothetical scenarios. Any hypothetical scenarios are intended to elicit thoughtful and lively discussion, but do not represent actual events.
- This program may include a discussion of certain ongoing or settled *qui tam* or other lawsuits. The discussion is based on publicly available documents and allegations in the lawsuits. We wish to remind participants that allegations are allegations only. We also wish to remind participants that the list of cases and related issues we discuss may not be comprehensive.

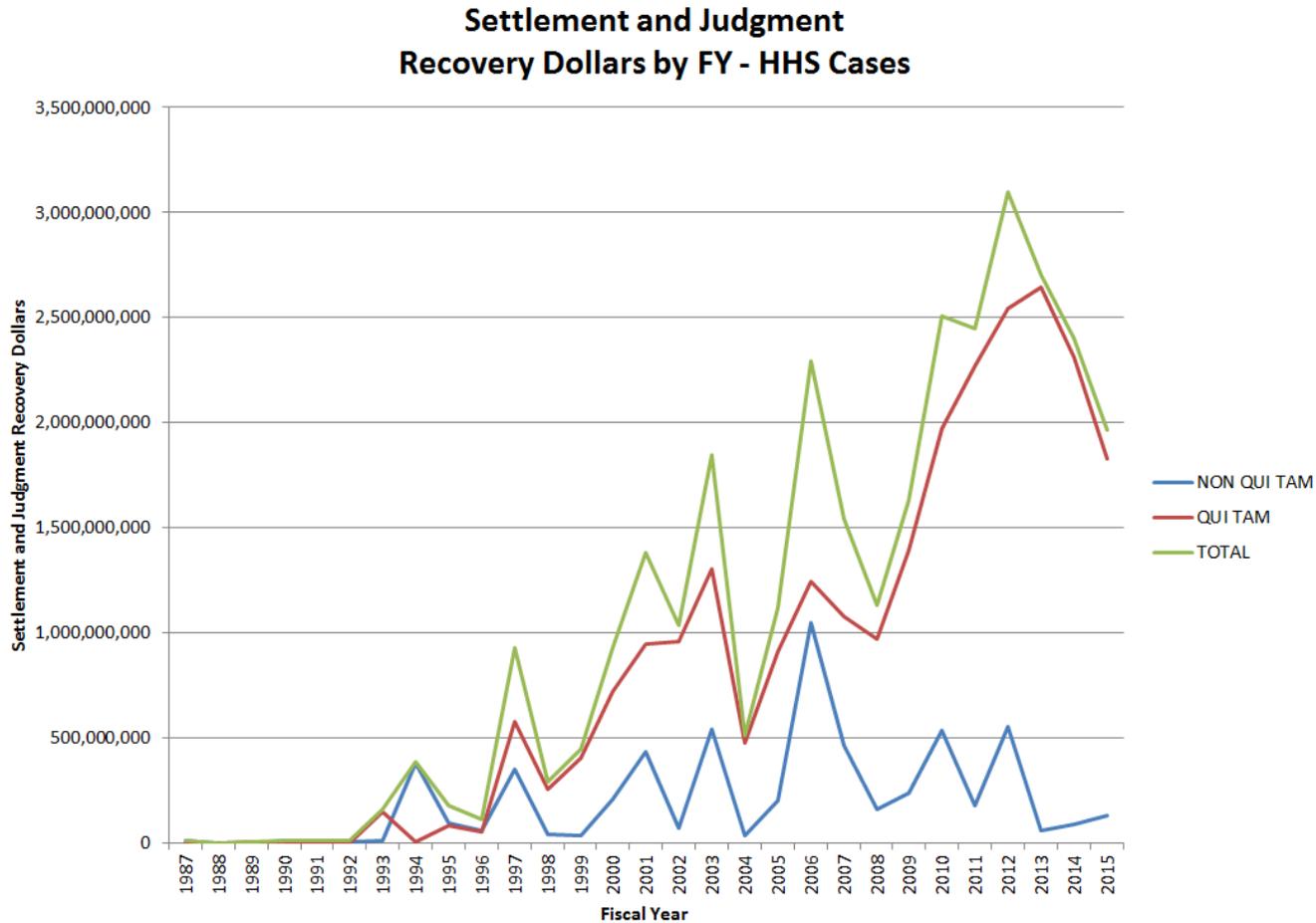
Webinar Agenda

- Physician Financial Arrangements
 - Why Hospitals in Engage in Physician Financial Arrangements
 - Complexity Increases Need for Planned Process
 - Who are the Individuals/Departments Involved
- Is There a Best Practice for the Parties to Work Together?
 - Initiation and Qualification of Transactions
 - Determining Options and Assessing the Structure
 - Ongoing Monitoring and Oversight

Reasons for Physician Affiliation

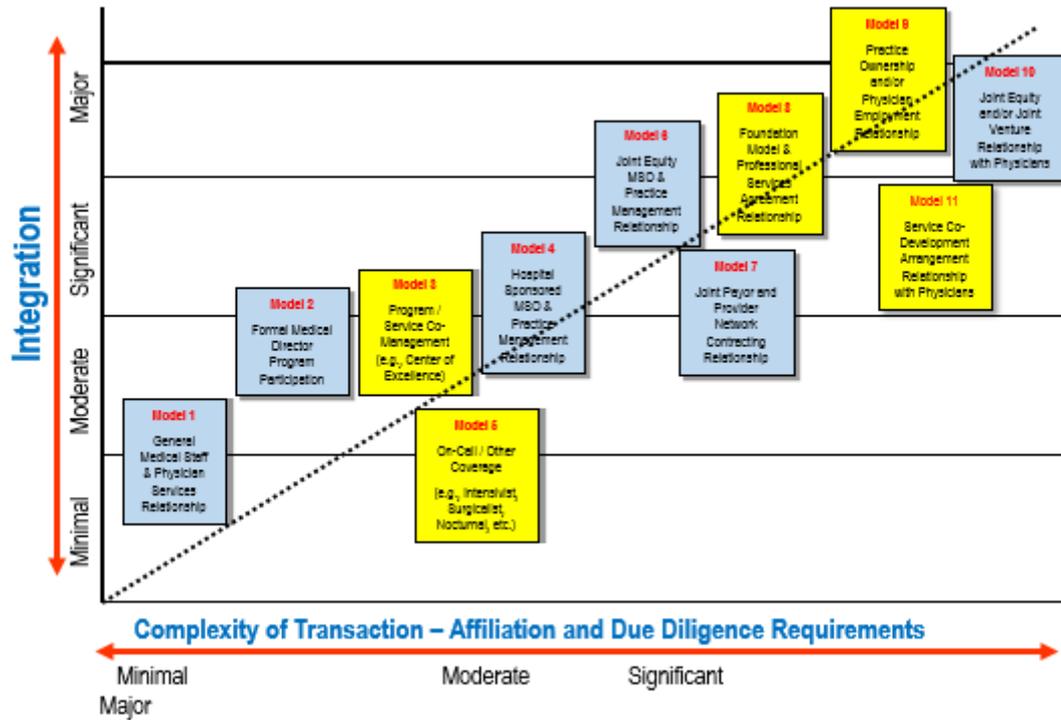
- Value-based reimbursement (VBR) initiatives
- Accountable Care Organization (ACO)/Clinically Integrated Network (CIN) requirements
- Meeting the Hospital's/System's Mission
- Provision of a continuum of care in a community
- Other economic/market needs

Physician Affiliation Initiatives Need for a Planned Process

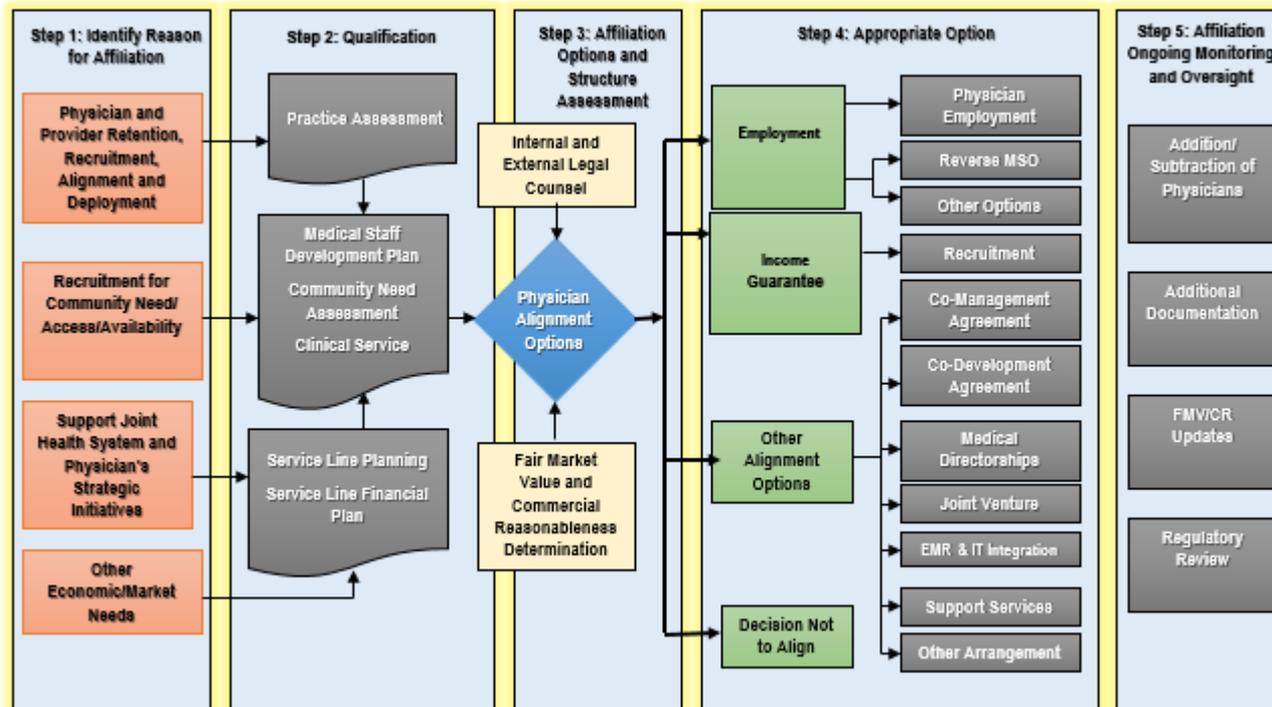


- Takeaway: Such emboldened enforcement does not lend itself to an ad hoc process!

Physician Affiliation Options



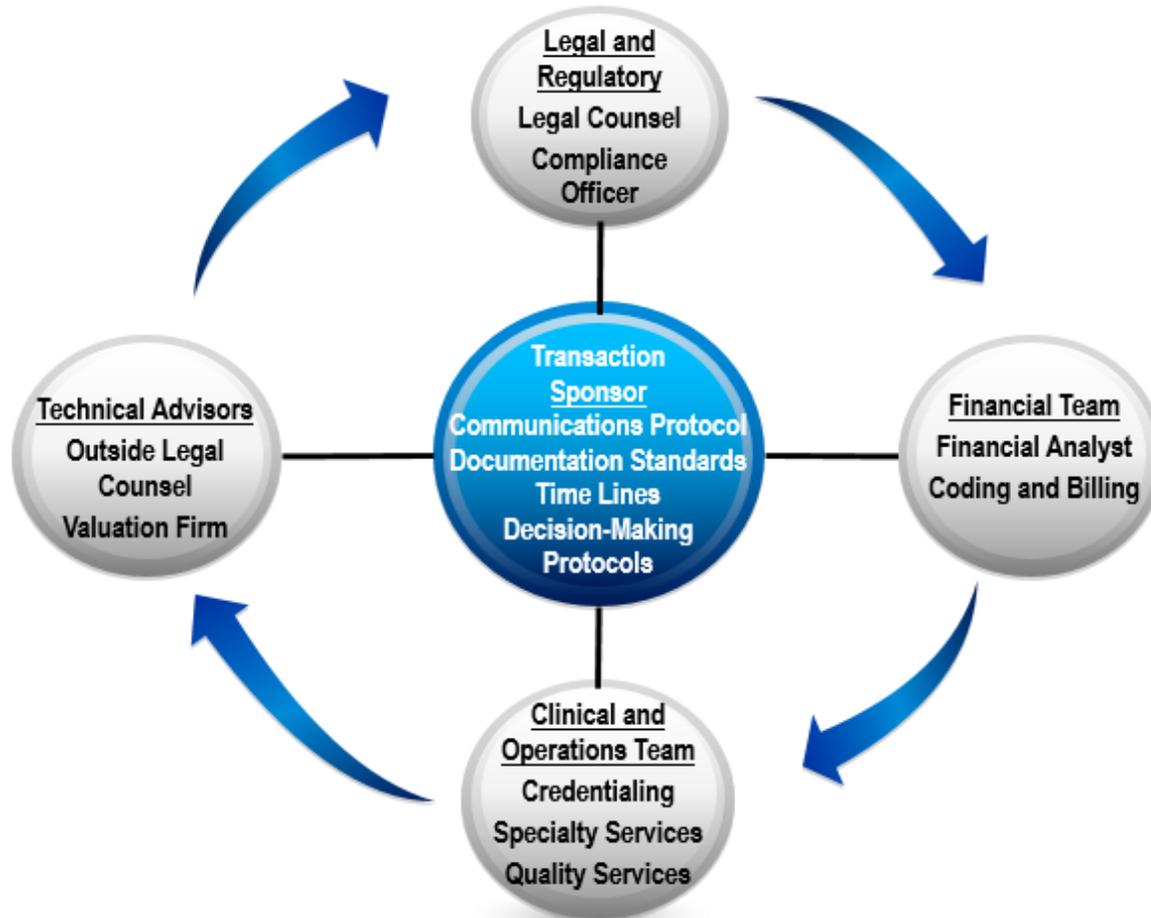
Physician Affiliation Process



The Physician Compensation Process

Is there a best practice?

Discussion of Roles – Who is Involved?



Foundations of a Transaction

- Practice Assessment
- Medical Staff Development Plan
- Community Need Assessment
- Clinical Service
- Service Line Planning

Formation of Intra-Departmental Teams and Committees

- **Teams**
 - Practice Acquisition Team
 - Compensation Modeling Team
 - Recruitment/Onboarding Team
 - Joint-Venture or Co-Management Team
- **Committees**
 - Provider Arrangements Council
 - Provider Compensation Work Group

Formation of Intra-Departmental Teams and Committees

- **Membership**
- **Practice Acquisition Team**
- **Compensation Modeling Team**
- **Recruitment/Onboarding Team**
- **Joint-Venture or Co-Management Team**

Formation of Intra-Departmental Teams and Committees

- **System Committee Membership**
- **Operational Leadership**
- **Legal Leadership**
- **Finance Leadership**
- **Clinical Leadership**
- **Compliance Leadership**
- **Purpose: Maintain overall approval and oversight of financial arrangements and teams vetting financial arrangements.**

Formation of Intra-Departmental Teams and Committees

- **System Committee Responsibility**
- **Development of Philosophy**
- **Development of Thresholds**
- **Development of Approval Process**
- **Development of Standard Involvement of Various Departments**
- **Develop Guidance for Engaging Technical Advisors**

Initiation & Qualification of the Transaction

- **How does the transaction begin and what parties get involved at the onset?**
 - Parameters for triggering team involvement
 - Parameters for triggering executive involvement
 - Parameters for triggering technical advisor involvement
- **Attorney-Client Privilege**

Affiliation Options, Structure Assessment & Determination

- How are affiliation options discussed and decided?
- What are the roles in negotiation/determination of structure, financial terms, and FMV/CR?
- Participants
 - Hospital Management & Finance
 - Legal & Compliance
 - Outside Legal
 - Appraisal Firm

Intersection Between Valuation Opinions & Legal Opinions

- Legal opinions seek written opinions on a deal, but the lawyers typically will not opine on the valuation (e.g., whether price exceeds Fair Market Value)
- Valuation opinions analyze the value of the subject enterprise, asset, or service
 - Valuation opinions are not legal advice; however the overall legal opinion seeks to provide substantive legal advice and to maintain privilege

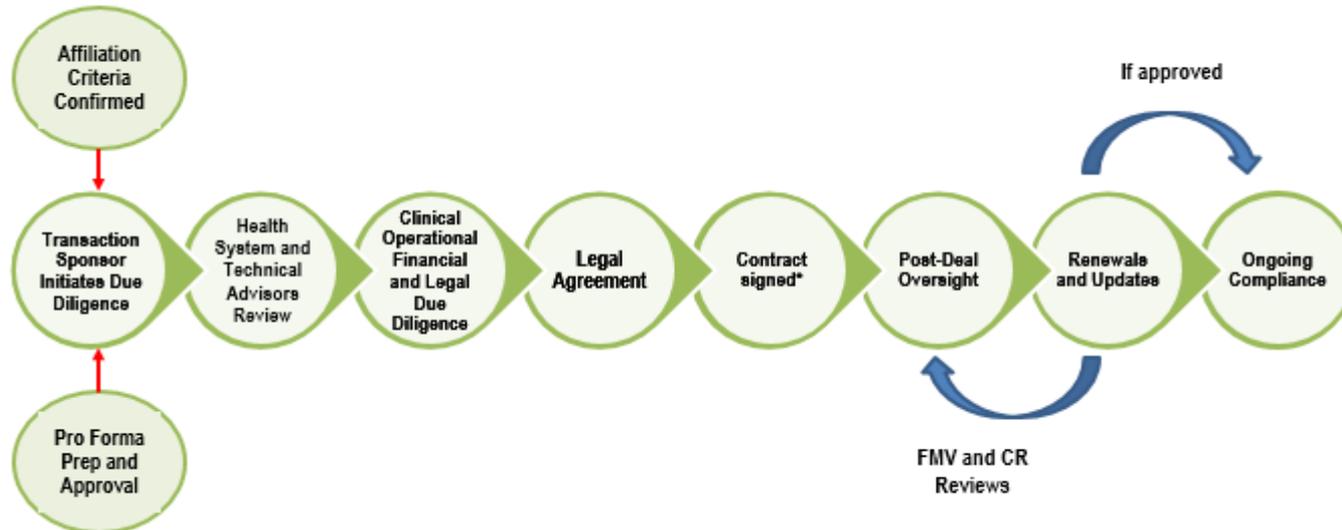
Determining the Appropriate Affiliation Option

- **How should organizations work with their teams to assess FMV/CR in the following arrangements?**
 - **Physician Employment**
 - **Compensation Models**
 - **Professional Services Agreements**
 - **Recruitment Guarantees**
 - **Joint Ventures**
 - **Practice Acquisition**

Ongoing Monitoring and Oversight

- **How should organizations approach ongoing monitoring and oversight?**
 - **Addition/Subtraction of Physicians**
 - **Additional Documentation**
 - **FMV/CR Updates**
 - **Regulatory Review**

Transaction Process Flow Chart



*Complex arrangements supported by valuations and legal opinions

Panelist Takeaways

- **Not all Organizations are the Same**
- **Impact of the Transition from Volume-Based to Value-Based Reimbursement on Hospital/Physician Affiliation/Compensation**
- **Commercial Reasonableness is a distinct threshold and just as important as FMV**

Questions & Answers



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