

DUE DILIGENCE

PRE-EMPLOYMENT DUE DILIGENCE CHECKLIST FOR PHYSICIANS

A. Preliminary Considerations

- Google the “Medical Practice” and “Physicians” – 4 Star review * * * *
- Review State Medical License Lookup for issues
- Ask colleagues about the reputation of the Practice and its Physicians
- Inquire about staff retention/turnover
- Patient census – Who will you serve?
- Location, location, location
- Growing Practice or winding down?
- Opportunity to buy-into practice?
- Is this a stepping stone or are you looking for a home?

B. Contracts/Legal Documents

1. Employment Agreement – Key Terms
 - a. Term of Agreement – “for cause” versus at-will termination
 - b. Compensation and bonuses (how determined: i.e. bonus formula based on billings or collections or gross/net profit. Does formula take into account overhead). Inquire about bonus history for other physicians.
 - c. Health/welfare, retirement & fringe benefits
 - (1) Health Insurance, Dental Insurance, Eye Care (review waiting periods, co-pays, coverages and exclusions)
 - (2) Life Insurance
 - (3) Short-term/long-term disability Insurance (review waiting periods and coverage). Any gaps in coverage? Consider purchasing separate personal policy for tax benefit.
 - (4) Pension/Retirement (review waiting period and vesting requirements)
 - (5) Paid time off: vacation, personal, sick time, maternity leave
 - (6) CME (how much time off and what is the budget?)

- (7) Moving expenses
 - (8) Cell phone/pager
- d. Licenses, DEA/controlled substance registration
- e. Professional memberships and journals (paid or unpaid)
- f. Hospital Staff fees
- g. Non-Compete and Confidentiality Provisions
 - (1) Duration
 - (2) Geographical limitation
 - (3) Scope (i.e. type of practice/specialty)
 - (4) Carve out if term expires without renewal, terminated without cause or practice breach of agreement**
- h. Non-Solicitation Provision, if applicable
 - (1) Does it to all patients employer serves or only those you see?
 - (2) Ensure definition of term “solicit” is not overly broad
- i. Medical Malpractice/Professional Liability Insurance
 - (1) Is it occurrence or claims based policy?
 - (2) Indemnification and Hold Harmless – tailor this
 - (3) Tail Coverage – Is this required upon hire & termination? Who pays and under what circumstances
- j. Buy-in Provisions
 - (1) Triggering events permitting buy-in to the practice
 - (2) Preliminary buy-in terms (e.g., valuation, structure and assets subject to valuation)

2. Stock Purchase Agreement (Buy-in)

a. Due diligence on practice.

- (1) Tax returns - review concerning (among other things) debts/assets
- (2) Quarterly reports – profitability and trends
- (3) Third party contracts (e.g., leases, equipment, management agreements or other service agreements)
- (4) Insider agreements – Leases with owners and employment agreement with family members
- (5) Remuneration is equitable (e.g., based on productivity and fair allocation of expenses)
- (6) Company documents including Bylaws and Articles
- (7) Other liabilities including litigation and investigations

b. Price. Based on third party appraisal (FMV or book value), fixed price or income shift

c. Structure of Buy-in. Purchase of shares or membership interest (after-tax dollars) or income shift (pre-tax dollars)

d. Control. How are decisions made on key issues (e.g., new partners, debt, selling practice)

e. Employment agreement. Look to ensure all partners are treated equal.

3. Buy-Sell Agreement

a. Triggering events (e.g., divorce, retirement, termination of employment, etc.)

b. Price/Valuation. Third party appraisal (FMV or book value), fixed price or % of income

c. Structure. Deferred compensation vs. buyback of shares and resulting tax implications

d. Non-compete. Limitations on exiting party