

**FMVantage Point™**

HealthCare Appraisers' Industry Insight

SERVICE LINE CO-MANAGEMENT AGREEMENTS AND EMPLOYMENT CONSIDERATIONS

HUNTER HALL

With continued emphasis by the government and other payors on value-based care and quality measures, service line co-management is one of the many models that have been developed to foster further alignment between hospitals and physicians with the hopes of achieving better patient outcomes. Since its seemingly favorable reception from the U.S. Department of Health and Human Services Office of Inspector General in Advisory Opinion No. 12-22, service line co-management has continued to be a prevalent and successful vehicle for incentivizing quality improvement. Of the myriad nuances of co-management agreements, physician employment status is an important aspect to consider.

Employment agreements and independent contractor arrangements are both still frequently used by health systems and hospitals to ensure appropriate staffing levels and adequate clinical coverage, particularly in specialties with a limited pool of providers or which require specific, focused background, training, or expertise. While certain hospitals and health systems avoid the inclusion of employed physicians in a co-management arrangement based on the perception that it is overly complicated or even impermissible, this is not necessarily the case. So long as appropriate considerations are made with respect to applicable regulatory and valuation issues, the involvement of employed physicians generally poses little to no additional risk in comparison to their independently-contracted counterparts. Accordingly, the physician managers involved in service line co-management arrangements frequently encompass a combination of independent and employed physicians.

Specifically, when structuring a co-management arrangement that will involve employed physicians, hospitals and health systems should take great care to ensure that the management services to be provided by employed physicians are (i) in "excess of" their underlying clinical and/or administrative duties outlined in their employment arrangements; and (ii) have no overlap of duties or responsibilities between their respective employment agreements and the requirements outlined in the co-management agreement. Alternatively, if there is overlap between the duties required by an existing employment arrangement and the management services, care should be taken to ensure that such duties are only compensated once, either through the applicable employment arrangement or by way of the co-management agreement. Further, the total 'available' compensation under both arrangements (*i.e.*, the employment agreement and the co-management agreement) should be reconciled and analyzed for any aggregate compensation concerns.

Having valued more than 2,000 co-management arrangements over the last decade, and as a trusted leader in fair market value, HealthCare Appraisers is able to provide expert third-party insight when navigating the complexities of implementing or revising co-management arrangements that may involve the inclusion of employed providers.

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