

HFMA South Texas Chapter Fall Institute
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Physician Employment by Hospitals
Opportunities and Challenges

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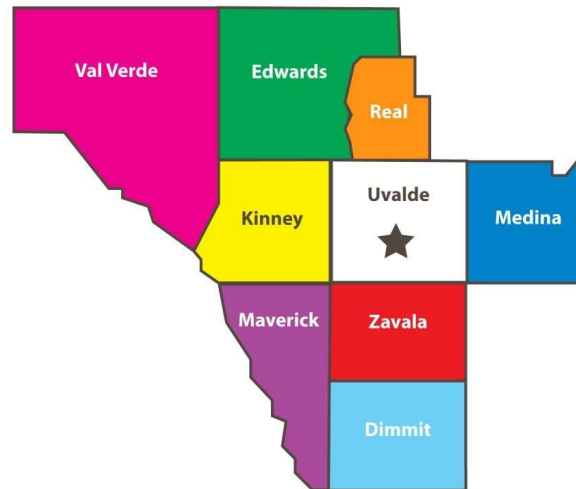
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Uvalde Memorial Hospital



- Licensed 66 beds
- County hospital authority
- Uvalde County pop. 26,405
- Primary Service Area: 46,547
- Sole Community Hospital
- Active Medical Staff: 18
- Employed physicians: 4
- Brag: New Radiation Therapy Service opened in October.

Serving The Residents Of:



UMH Physician Employment Journey

- Board/Medical Staff strategic planning established physician needs aided by recognized population-physician ratios
- Efforts to recruit specialists/surgeons fail using income guarantee method
- 2007 attempt at rural hospital physician employment bill fails in state legislature
- UMH builds own 5.01a as a tax exempt 5.01c3 corporation

Physician Employment Journey cont.

- New general surgeon successfully recruited followed by a cardiologist within months of offering employment option.
- Both left within 2 years for reasons unrelated to 5.01a employment satisfaction
- Both replaced within a year plus an orthopedic surgeon and a pediatrician were recruited in 2010.

Physician Employment in Texas

- Senate Bill 894 – effective 5/12/11
- Senate Bill 1661 – effective 9/1/2011



Senate Bill 894

- Applies to
 - Critical Access Hospitals
 - Sole Community Hospitals
 - Located in County of 50,000 or less



Senate Bill 894 Provides

- Hospitals and physicians have option to enter into an employment relationship
- Hospital may retain all or part of income generated by physician
- For services provided at hospital or at other facilities owned or operated by hospital



Policy Requirements

- To employ physicians, the hospital must adopt, maintain and enforce policies, including:
 - Credentialing
 - QA
 - UR
 - Peer Review and Due Process
 - Medical Decision-Making



- Policies must be approved by the medical staff
- Existing policies should be reviewed; hospital may choose to adopt new policy on employing physicians and make references to existing policies
- If conflict between policy adopted by medical staff and hospital policy, must have conflict management process to resolve conflict

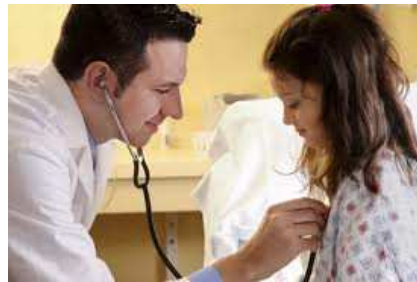
Chief Medical Officer Requirements

- To employ physicians, hospital must appoint a chief medical officer recommended by medical staff and approved by hospital board
 - Employed doctors report to CMO for all matters related to practice of medicine
 - CMO to notify TMB that hospital is employing doctors
 - CMO to report to TMB any action that CMO in good faith believes will compromise independent medical judgment



Medical Staff Credentialing

- Equal consideration must be given on granting of medical staff privileges regardless of physician's employment relationship with hospital
- Medical staff bylaws should be reviewed, but modifications not required
- May not discipline physician for reasonably advocating for patient care



Covenants Not to Compete

- Requirements if employment contract includes covenant not to compete
 - Must comply with statutory provisions applicable to covenant not to compete relating to practice of medicine
 - Covenant enforceable if it is part of an otherwise enforceable agreement and contains limitations on duration, geographical area, and scope of activity that are reasonable
 - Covenant must not deny the physician:
 - access to a list of patients treated within one year of termination;
 - access to medical records upon authorization of the patient;
 - an opportunity to provide continuing care and treatment to patients after relationship has been terminated; and
 - an opportunity to buy out of the covenant at a reasonable price

Liability Insurance Coverage

- Hospital must determine type of coverage (risk covered, prior acts, etc.)
- If hospital provides professional liability coverage, the physician:
 - Should be added to hospital's existing professional liability policy
 - May participate in selection of PL coverage
 - Has a right to carry individual coverage and hire independent legal counsel if they pay for it
 - Retains right to consent to settle liability claim or enforcement action
- Tort claims vs. non-tort claims hospitals

Physician Compensation

- Establishing reasonable and appropriate compensation for employed physician is key issue and will determine whether relationship will be successful for physician and hospital
- Federal and state law requires that physician compensation is consistent with fair market value of the services provided
 - Compensation not based on volume or value of any referrals
 - Compensation must be "commercially reasonable" even if no referrals
 - Compensation may in form of productivity bonus

Physician Compensation

- Determination of fair market value

- National data bases for physician compensation

- American Medical Group Association
- Medical Group Management Association
- Hospital & Healthcare Compensation Service
- Merritt Hawkins & Associates
- Sullivan, Cotter & Associates



- Data available

- Primary specialty
- Annual salary, bonus
- On-call rate, contract hourly rate
- Hours worked annually
- Number of patient visits per week
- Benefits (vacation/holiday, medical/disability/life insurance, retirement, CME, professional dues, tuition assistance, etc.)

- Use of percentile of reported compensation levels , state or regional data

Physician Compensation

- Types of compensation arrangements

- Fixed compensation (flat hourly, flat or variable encounter rate)

- Fixed compensation with income guarantee

- Fixed base compensation with productivity or quality adjustments

- Number of patient visits
- Appropriate coding and documentation of services
- Appropriate utilization of services
- Reporting of quality data
- Meeting quality metrics

- Fixed base compensation and sharing of net income

Physician Compensation

- Other important considerations
 - Consistent use of fair market value data or consultant report
 - Regular/annual review of fair market value analysis
 - Appropriate application/review of productivity and quality adjustments
 - Appropriate documentation/retention of physician compensation data, fair market analysis
 - Annual accounting to physicians

Human Resources Issues

- Hospital personnel policies apply
 - Discrimination
 - Drug testing
 - Harassment
 - Regular evaluations
 - Vacation, sick leave or PTO
 - Discipline process
 - Grievance process, if any



Senate Bill 1661

- Modifies requirements for 501(a) health care organizations
- Prohibits interference with medical judgment
- Requires policies on:
 - Credentialing
 - Quality assurance
 - Utilization review
 - Peer review
- Implementation of policies may be delegated to corporate member

Senate Bill 1661

- Policies to be developed by physician board of corporation by 1/1/12
- Physicians may not be disciplined for advocating patient care
- Requirements cannot be waived by contract
- TMB has expanded enforcement authority - may levy administrative penalty for violations

Transition of Existing Practice

- It becomes your business!
- Employee supervision and benefits
- Managing an off-campus location and billing/coding compliance



Is Hospital Employment Right Option?

- Pros and Cons of hospital vs. 5.01(a) employment option
 - Physician governance of 5.01(a) corporation
 - Semi-independent relationship of 5.01(a) corporation
 - Employee benefits/pension plans
 - Management of physician practice
 - Compliance with organizational policies/procedures
 - Liability exposure and coverage

Does Employment Make Sense Financially?

- Availability and costs of recruitment and retention of employed physicians (compensation, benefits, other)
- Resources available to compensate employed physicians
- Payor mix of hospital and physician
- Efficiencies or cost savings derived from relationship

Medical Development Plan

- Physician needs assessment
- Which physicians should be employed?
 - Specialists vs. primary care
 - Hospital based physicians (emergency, hospitalist, radiology, other)
- Physician input into medical development plan
- Impact on current members of medical staff

Evaluation of Employment Relationship

- Periodic evaluation of benefits and costs of relationship
 - Meeting community needs
 - Financial impact on hospital and physician
 - Improved quality and efficiency in providing services
 - Impact on independent physicians
- Modification or termination of relationship
 - Credentialing and peer review process
 - Modification of terms of employment
 - Impact on medical staff privileges
 - Covenant not to compete

Planning a Physician Employment Strategy doesn't have to look like this:



UMH Guiding Principles to Physician Employment

- Establish need
- Have medical staff buy-in
- Establish workable contracts
 - Right base
 - Right incentive
 - No non-compete
 - Use MGMA tables for Fair Market Value
 - Ground rules for practice quality and behavior expectations. 90 day, six month, and annual performance reviews a must.
- Employ only physicians you trust will integrate well
- Data, data, data to all stakeholders: Board, medical staff, employed physicians.

QUESTIONS?

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