

**AMERICAN HEALTH LAWYERS ASSOCIATION  
ANNUAL MEETING**

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**“UNDER ARRANGEMENT” HOSPITAL-PHYSICIAN VENTURES:  
STILL ANOTHER WAY TO COOPERATE?**

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## Background of Hospital-Physician Relationships

### **Are physicians the hospital's "partners" or its "customers"?**

- Hospitals and physicians are competing for the same sources of inpatient and outpatient revenue.
- Equity joint ventures often don't always satisfy the business objectives of the parties.
- Even financially successful equity joint ventures do little to align the parties' interests in improving the quality of care, reducing waste, and coordinating care.



## Background of Hospital-Physician Relationships

- **Description:** Non-equity models of cooperation are beneficial from a clinical and operational perspective but are unfamiliar to many lawyers and their clients.
- A variety of non-venture equity models have:
  - improved the quality of care
  - reduced inefficiency
  - allowed for shared decision-making
  - permitted investment in costly new technologies
  - enhanced physician income without eroding the hospital's financial base
  - resulted in greater patient satisfaction.
- Some of these alternative models were first used in the 1980s and 1990s but recently have been given a more contemporary spin.



## Background of Hospital-Physician Relationships

**Non-equity models are not risk free and may not be for everyone.**

- Some joint ventures serve no legitimate purpose and are merely thinly-disguised attempts to get paid for the referral of business.
- Without a sense of shared destiny and without open, honest communication, any hospital-physician relationship is at risk of failure.
- Each party must reasonably believe that the other party's involvement is needed to make the venture successful for all stakeholders, including patients.



## Fact Pattern

- MedMAX Health System operates 6 hospitals in a state with no Certificate of Need Law. MedMAX's flagship hospital is Franklin Medical Center ("FMC"), a tertiary care facility that is nationally ranked in a number of specialties including cardiovascular care.
- FMC's service area has been experiencing a "medical arms race" which has caused its governing board to put the brake on new capital expenditures, particularly expensive diagnostic equipment.



# Fact Pattern

- Radiological Imaging Professionals, P.C. (“RIP”) is a group of nearly 50 radiologists who serve several MedMAX hospitals and a few of MedMAX’s competitors including St. Mary of the Springs Hospital (less than a mile from the FMC campus).
- RIP has aggressively developed imaging centers in addition to investing in several hospital sponsored joint ventures.
- RIP has interests in MRI, PET and older CT technology but not a 64 slice CT.
- RIP’s president Dr. Jason Fleece has urged his fellow radiologists to order a 64 slice machine for their imaging center near St. Mary’s but RIP’s lender Knox Bank has been slow to issue a financing commitment.
- Knox wants RIP’s physicians to either personally guarantee the loan for the CT or obtain a corporate commitment from one of the local hospitals.



# Fact Pattern

- Having recently been elected to FMC's board, Dr. Fleece approached FMC's CEO Darla Shopright after last month's meeting and asked whether she could get the hospital to lease a 50% block of time on RIP's proposed 64 slice CT for the hospital's outpatients.
- Fleece indicated that in connection with the block lease, RIP would require an agreement restricting competition for certain referral sources and allocation of patients requesting screenings with no referral.
- Shopright replied that, subject to working out the legal details, she liked the idea and would recommend it at the next board meeting.

