

Starting a physician practice in Michigan

Due to increasing economic pressures, frustration with bureaucratic policies, and a growing need for autonomy, many young — and not-so-young — physicians are considering starting their own medical practices in Michigan. The purpose of this article is to provide the reader with a general overview of the issues involved in opening a new physician practice in Michigan. It is by no means an exhaustive list of all of the potential issues faced by physicians who desire to open a practice, but it should provide a valuable map to follow down the road to professional independence.

Does it make 'cents' for you?

While the potential financial gains often motivate physicians to consider starting their own practices, other important considerations include:

- securing financing for the initial startup costs;
- the likelihood of operating at an initial deficit for a significant amount of time before billings are collected;
- the resources needed to devote to handling administrative tasks, including marketing, billing, managed care and insurance issues, and employment matters;
- the additional time away from family and friends as a result of the need to build the practice; and
- the lack of colleagues available for immediate consultation.

If after considering these factors the physician wishes to proceed, it will be necessary to create a business plan.

Create a business plan

Any physician considering opening a new practice in Michigan must be cognizant of the costs involved in doing so. Most every physician will need financing to make the opening of a medical practice a reality. In order to assess one's financial needs, it is helpful to devise a business plan. The best approach to developing a business plan is to put together a qualified team of advisors, including a health-

Business of Medicine

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care attorney, a practice management consultant, and an accountant. Each of these advisors serves an important role in the development and implementation of a successful business plan.

A well-drafted business plan will include several components. At a minimum, a business plan should include:

- detailed description of the intended business;
- market analysis;
- marketing strategy; and
- financial projections.

The primary purpose of a business plan is to establish the financial viability of a physician practice and as a result to procure financing from third-party lenders. Without a well-drafted business plan, financial institutions will be less inclined to provide the physician with the funding necessary to open a new practice. A well-drafted business plan also serves to help the physician develop and refine business goals and objectives.

Location, location, location

As they say in real estate, the three most important factors to a successful investment are location, location and location. Even highly skilled physicians will have difficulty achieving significant financial success in a market filled with doctors. Accordingly, physicians opening a new practice are well advised to engage in a demographic analysis of the communi-

ties in which they intend to practice to determine whether there is community need for physician services.

Contrary to common understanding, a demographic analysis need not be cost prohibitive. Physicians must be mindful that it could prove far more costly to open a medical practice without first researching community need for physician services.

At a minimum, a demographic analysis should include a calculation of the physician-to-patient ratio within the physician's particular specialty. Information regarding physician supply and demand in Michigan is available from the state of Michigan (www.michigan.gov/documents/Survey_of_Physicians_2005_147639_7.pdf) and the Michigan State Medical Society (www.msms.org/bsyp/news/PhysicianShortageIncrease.html).

In addition, such data may be available from the soon-to-be-formed Michigan Healthcare Workforce Center, a division of the Michigan Department of Community Health, which plans to offer an interactive web site that will house Michigan specific data and reports generated by State departments. (See www.michigan.gov/mdch/0,1607,7132-8347-134340—M,00.html and www.mi-osteopathic.org/pages/public/pres-releases.html).

Once the physician-to-patient ratio in an area is obtained, it is important that population figures be put into context. The ages of the physicians as well as the ages of patients in a community are important considerations.

For example, if many physicians are near retirement, the physician-to-patient ratio may not reflect an accurate representation of the market opportunities in an area.

Another important consideration is a physician's attractiveness to insurance carriers serving specific geographic locations. An insurance carrier may be hesitant to approve a credentialing request from a physician if it is believed that there exists a surplus of physicians in a given specialty within the community.

Business structure

Once a physician has chosen a location for his practice and analyzed the financial feasibility of opening the practice in the chosen location, the next step is to begin to implement the business plan. The initial step in this process is to decide on a corporate structure.

Several corporate structure options are available, including S corporations, C corporations, limited liability companies, and limited liability partnerships. A health care attorney, corporate attorney and/or an experienced accountant are best suited to advise a physician in choosing the most appropriate business structure.

In Michigan, the Learned Professions Doctrine requires all owners of an allopathic or osteopathic physician practice to be licensed "physicians and surgeons" which includes doctors of medicine, osteopaths, and podiatrists. (See, "Corporation and Securities Bureau Release 94-1a-C." Note that the release does not include chiropractors.)

In establishing the business structure of an organization, physicians must be cognizant that group practices providing certain ancillary services must comply with the Michigan and federal Stark laws. Accordingly, a physician establishing a group practice should enlist the services of an experienced healthcare attorney to review the physician's arrangements in light of these laws.

Financing

The next step in the implementation of the business plan is to procure financing to support the opening of the new practice. When seeking financing, physicians should be aware that the more information they provide to a loan officer, the

more successful will be their attempt to acquire financing.

For example, a physician who approaches a loan officer with a business plan that details cash-flow projections, including a detailed analysis of the time-frame in which the requested loan will be repaid, and further includes a demographic analysis of community need for physician services, will be likely more successful in obtaining financing than a physician who simply asks to borrow a sum of money without supporting documentation.

Office space

After obtaining financing, a physician should next attempt to secure office space for the practice. In choosing an office location, physicians must be mindful of local zoning ordinances, which may limit the areas in which medical practices may be located. While it is important that all physician offices be accessible to patients, it is most important for a generalist's office to be located near a population center. A specialist's office may be more appropriately located near a hospital.

Physicians must carefully calculate the amount of space they will need to practice medicine in a comfortable environment. It is a common mistake for physicians to underestimate the amount of space required for business offices and storage. With respect to exam rooms, physicians should keep in mind that a physician office often requires more than one exam room for each physician.

In order to achieve top productivity, it is suggested that a physician have several exam rooms. Medical staff such as medical assistants and nurses will use the exam rooms not in use by the physician to prepare patients to be seen by the physician. With these considerations in mind, a solo practitioner may be able to practice comfortably in 1,500 square feet. However, a mid-size physician group practice may require more than 4,000 square feet to operate comfortably. A practice management consultant may be in the best position to advise a physician regarding the amount of space he or she will require to practice comfortably.

Once office space has been located, a physician must decide whether he or she wishes to purchase or lease office space. Should the physician decide to lease office space, in most situations, the physician will need to negotiate the standard lease terms with the landlord. Standard commercial lease terms tend to be overly landlord-friendly. Accordingly, physicians should enlist the services of a healthcare attorney, real estate attorney, or a lease broker experienced in assisting physicians to help negotiate important terms.

Further, note that if a physician's lease for office space is with a potential referral source, the arrangement must comply with the federal and state Stark laws and the federal Anti-kickback statute.

Licensing and registrations

Out-of-state physicians planning to open a new medical practice in Michigan must start the licensing process as soon as possible, as the licensing process may take several months. Michigan medical licensure requirements are available from the Bureau of Health Professions website. (See, www.michigan.gov/mdch/0,1607,7132-27417_27529—,00.html.)

In addition to obtaining a Michigan medical license, a physician must also obtain each of the following licenses, registrations and certificates prior to opening a practice in Michigan:

- Drug Enforcement Administration registration to prescribe controlled substances;
- Michigan Drug Control license (required if the physician plans to dispense drugs from the physician's office);
- Michigan Controlled Substance License;
- Michigan Hazardous Waste License;
- Clinical Laboratory Improvement Amendments (CLIA) certificate (if the physician intends to perform in-office lab work);
- employer identification number (EIN);
- state tax identification number;
- Medicare provider number and Universal Provider Identification Number (UPIN) (if the physician plans to accept Medicare patients); and
- Medicaid provider number (if the physician plans to accept Medicaid patients).

Further, pursuant to Health Insurance Portability and Accountability Act of 1996

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(HIPAA), providers are required to obtain a National Provider Identifier Number. (See, <http://a257.g.akamai.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2004/pdf/04-1149.pdf> and <https://npes.cms.hhs.gov/NPES/Welcome.do>).

In addition, physicians may need to obtain either a city or county business license to run a medical practice.

Enrollment and credentialing with insurance plans

Physicians should initiate the credentialing process with insurance plans as soon as possible following a decision to open a new practice as completion of the credentialing process may take several months. Credentialing forms are lengthy and often require the physician to provide extensive documentation, such as an updated CV, copies of the physician's state and federal registrations and certificates, current professional liability insurance policy, and Educational Commission for Foreign Medical Graduates (ECFMG) certificate if the physician attended a non-US medical school.

If the community in which the physician plans to open his or her new practice is served by insurance plans with which the physician is already credentialed, the physician may only need to update his or her practice address. In either scenario, it is essential that physicians completely and accurately complete credentialing applications to ensure timely processing. Physicians must make every effort to simplify the review process for the provider relations representative of the insurance plan.

One way to streamline the enrollment and credentialing process is for providers to participate with the Universal Credentialing DataSource, www.cqh.org/ucd.html.

The Universal Credentialing DataSource is a single online process that providers may utilize to complete one credentialing application for submission to multiple insurance plans. Many insurance plans currently participate in the Universal Credentialing DataSource, including Blue Cross and Blue Shield of Michigan (BCBSM) — www.cqh.org/ucd_health_participating.html.

Additionally, most insurance plans make enrollment and credentialing applications available online, and some insurance plans even permit physicians to complete and submit the applications online. BCBSM is one payor located in Michigan that makes enrollment applications available online — www.bcsm.com/providers/physicians/physicians_enrollment_medical.shtml.

An important note for physicians that participate with BCBSM: Participating providers may request and obtain from BCBSM a practice profile. The practice profile will compare the particular physician's utilization of his or her main procedures performed with other physicians in the same specialty in approximately the same geographic area. It is highly recommended that physicians consistently obtain and carefully review their practice profiles. Over-utilization may indicate that the physician is not compliant with all applicable BCBSM policies.

Further, a physician's utilization in excess of his or her peers may trigger an audit, resulting in a significant overpayment demand or even deparicipation.

Insurance

As an employer, in addition to mandatory workers' compensation insurance, a physician should acquire several other insurance policies, including, but not limited to, the following:

- malpractice;
- business owners;
- business continuation;
- employee dishonesty (employee fidelity bond);

- health;
- disability; and
- umbrella coverage

Of these types of discretionary insurance, malpractice insurance may be the most essential to any physician practice. Most third-party payors and hospitals require a physician to obtain malpractice insurance prior to granting payor contracts and/or hospital privileges. It is imperative that a physician's malpractice insurance covers all functions in which the physician engages.

If, prior to the opening of his or her new practice, a physician was employed by a separate entity and he or she was insured under a claims-made policy, the physician should determine whether his or her contract with the employer states that the employer will pay for necessary "tail" coverage upon his or her departure.

Tail coverage will insure the physician against lawsuits filed in the future arising from the physician's work as an employee of that separate entity. If the employer will not provide tail coverage to the physician, and the physician must provide for his or her own tail coverage, physicians should be aware that the cost of tail coverage is often twice the cost of a traditional malpractice premium.

Physician-employers should also consider business-owners insurance, which covers the contents of the practice office building in the event of vandalism, theft, or fire. In addition, this type of insurance protects the practice's assets from any lawsuit that arises from accidents that occur on the premises.

Further, physician-employers should consider obtaining each of the following types of insurance:

- business continuation insurance (which protects the practice in the event the physician becomes disabled and cannot work);
- employee dishonesty insurance (a/k/a an employee fidelity bond)(which protects the practice if an employee embezzles or steals from the practice);
- health insurance;
- disability insurance; and
- umbrella coverage (which provides additional insurance when a claim exceeds the limits of existing coverage).

In Michigan, a medical practice must have workers' compensation insurance to protect its employees. Workers' compensation insurance provides coverage for medical expenses and lost wages of employees who are hurt or become ill on the job. Michigan law requires that every employer subject to the act provides some way of assuring that it can pay benefits to its workers should they become injured. Most employers choose to provide this coverage through private insurers, although some employers self-insure.

Also in Michigan, business owners may choose from more than 220 insurance companies that provide workers' compensation coverage. Accordingly, physicians should consult with an insurance broker to identify the most competitive insurance plan to meet the needs of the practice.

For more information on Michigan workers' compensation insurance, visit the Bureau of Workers Compensation and the Michigan Economic Development Corporation websites — www.michigan.gov/wca and www.michigan.org/medc/services/workerscomp/.

Hiring administrative and medical staff

Prior to the opening of a physician's new practice, the physician should begin to hire its staff.

The first question a physician must consider is how many employees are needed to serve the practice. While a physician practice ultimately may require an office manager, one or more receptionists, a

checkout clerk, a billing clerk and one or more medical assistants (depending on budget and practice volume), initially physicians should start out hiring the minimum necessary staff.

A single physician who is beginning a new practice, without any patients, may want to hire one administrative support staffer, and increase personnel as needed.

A physician opening a new medical practice should carefully consider whether he or she would like to hire a billing clerk to work within the practice or whether the physician would prefer to contract with an independent medical billing company. In either situation, the physician must be aware that he will remain liable for any billing errors that are committed.

Additionally, prior to hiring medical staff, a physician must understand the supervision and reimbursement requirements of the third-party payors with which he or she is credentialed; third-party payors will reimburse a physician only for services provided by certain health care practitioners, in accordance with their billing and supervision requirements.

In writing job descriptions and office manuals, professional organizations, such as the Medical Group Management Association offer job descriptions and office manuals for sale — www.michmgma.org.

However, physicians should be cautioned that these documents should be viewed as a starting point for developing specific job descriptions applicable to the unique requirements of the physician's practice. An experienced health care attorney also can assist in developing comprehensive office manuals.

In determining the starting salary for administrative and support staff, physician-business owners should consult with local physicians. Established physicians within a particular community should be able to cite the going rate for medical support services. Physician business-owners may wish to consider providing health insurance benefits and retirement plans to their employees. Other common benefits to consider include paid vacation, continuing medical education and flexible work schedules.

Compliance program

Once the support staff has been hired, it is essential that a physician practice adopts a compliance program and train each of its employees on compliance-related issues. A compliance program should include policies and procedures related to compliance with the HIPAA statute and regulations, Michigan and federal Stark and fraud and abuse laws and regulations, as well as billing for all procedures that will be provided by the physician.

Documentation of medical services is a significant area of concern for all physician practices, as it greatly impacts risk management, third-party payor participation and audits, as well as transfer of patient care. Most-third party payors have significant documentation guidelines to which each physician must adhere in order to avoid overpayment demands and to maintain continued participation.

Billing compliance programs should incorporate the documentation requirements of the practice's top payors. Physicians should consult a health care attorney to establish and implement a comprehensive compliance program prior to billing for the first service rendered in the new practice.

It should also be noted that the recent trend toward electronic medical records will soon become a requirement for third-party payors. As such, it is advised that a physician opening a new practice should consult with a practice management consultant in choosing the appropriate software to meet his or her needs.

Additionally, all physician practices in Michigan in which a nurse or first aid team will perform medical procedures resulting in exposure to blood or other potentially infectious material and associated waste products must adopt an exposure control plan. Sample exposure control plans are available from the State of Michigan website (www.michigan.gov/cis/0,1607,7-154-11407_30453-94707--,00.html#bid).

Physician practices must also be aware of the laws and regulations regarding the storage and disposal of medical waste (www.michigan.gov/dec/0,1607,7-135-3312_4119--,00.html).

Systems

One of the final steps in opening a physician practice is to implement effective office systems. For example, physicians must consider such practicalities as the number of phones that will be required for the office and where each of the phones should be located. At a minimum, a solo practice should have at least three lines devoted to telephone calls, with one line reserved as the physician's private line. In addition, the practice will require a telephone line for a fax machine.

Other important practical considerations include:

- which answering service should be retained;
- whether a postage meter is necessary;
- which laundry, janitorial, and security systems to employ; and
- which medical transcription service to employ.

Importantly, under the HIPAA statute and regulations, physicians must remember that transcription service providers, and all other contractors who will have access to the protected health information of the practice's patients that meet the statutory definition of a business associate, must sign a business associate agreement with the practice. A qualified health care attorney will be able to assist a physician in drafting this document.

Marketing

After the physician has developed and implemented a business plan, he or she must find patients. One effective method of marketing a medical practice is to seek referrals from other physicians. Physicians opening a physician practice must be willing to network.

Marketing may be as simple as giving a talk at an organizational meeting or writing an article for a specialty publication. The physician may wish to place advertisements in local newspapers or mail announcements to certain neighborhoods. Physicians may also wish to develop a practice brochure. A well-developed practice brochure projects a professional image, and gives patients something to show others. Other forms of marketing include holding an "open house" to introduce the community to the practice and health fairs.

In developing a marketing plan, physicians must be aware that there are numerous regulations governing referral relationships (e.g. Michigan and federal Stark and federal Anti-kickback statutes and regulations). Physicians should seek the input of a healthcare attorney prior to implementing any proposed marketing plan.

Conclusion

This article is intended only as a general overview of the issues involved in opening a new physician practice in Michigan. This article is not an exhaustive list of all of the potential issues faced by physicians who desire to open a practice.

Physicians wishing to open a medical practice are well advised to consult with a health care attorney, a practice management consultant, and an accountant to consider the complex issues involved in opening a new physician practice.

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