

Physician Employment Contracts: How to Avoid Conflict if Employment Relationship Sours

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In the ever-changing healthcare industry, one consistent trend has emerged in recent years—a shift from physicians being employed by physician-owned practices to physicians being employed by larger healthcare entities. In the event a physician employment relationship deteriorates, and because a difficult physician separation can have substantial consequences, healthcare entities and physicians may want to consider a number of factors and steps that could avoid time-consuming and expensive litigation.

Recognizing a Strained Relationship

A typical scenario that can lead to relationship deterioration between physicians and healthcare providers might begin with workload and compensation questions. For example, Dr. X may feel that General Hospital is requiring him to perform significantly more work and that he is not being adequately compensated. Dr. X might contact Attorney Leonard, who reviewed his employment contract with General

Hospital before he signed it, and claim he is being treated unfairly by General Hospital. This is the first point at which negotiations could occur to resolve the issues in a professional manner.

Step 1: An Informal Conversation

First, Dr. X can have a discussion with General Hospital about the changes to his workload. He can determine the basis for the workload increase and express his concerns to General Hospital regarding the change. We will assume that General Hospital had referred to its various physicians contracts prior to making the request and that a General Hospital executive can explain what allowed the entity to make the change. A discussion such as this would allow the entity to be aware of the physician's concern and provide an opportunity to address the concern. It would also provide an opportunity to clarify the basis for the change. Too often both sides become entrenched in their own positions at this point and fail to have productive communication over the issue.

Step 2: Use of the Employment Contract as a Road Map

Let's assume that General Hospital refuses Dr. X's request for additional compensation and the doctor's workload remains the same. Dr. X might consult Attorney Leonard, who would review the terms of the employment contract, which will serve as the road map for everyone's actions moving forward. If the terms of the contract allow for a change to the doctor's workload, Dr. X may find that his options are defined by the contract as well. If he chooses not to accept the change to his workload, can he leave before the end of the contract and, if so, how?

A well-drafted physician employment contract will provide specifics on how the parties may part ways and what obligations or limitations may attach (e.g., notice and non-compete provisions). Both parties should adhere to these obligations or limitations, and best practice is to immediately seek to resolve any confusion as to the terms and conditions of employment. This is the second point at which negotiations could occur to resolve the issues in a professional manner.

Once a dispute is identified, the contract can also guide how a dispute is to be resolved. Is there a requirement of alternative dispute resolution prior to litigation? If so, then both parties must participate in order to avoid a breach. If no alternative dispute resolution is required, then the parties may decide to involve a neutral as an attempt to avoid litigation.

Step 3: A Clean Departure

General Hospital may still take actions to try to avoid or contain arbitration/litigation if Dr. X decides that his only choice is to leave. However, General Hospital should consider having certain mechanisms in place to ensure that unwarranted credentialing issues or patient continuity of care issues do not arise. In addition, all wages owed to Dr. X must be paid consistent with state law; employers may want to pay close attention to these wage obligations as improper stoppage of wages is a common mistake healthcare employers make when physician employment relationships go bad. Further, the discontinuation of access must be consistent with

policy. Sloppiness with these details can lead to issues that need not arise, such as defamation and wage payment claims.

Keep Control

While this may all seem straightforward, it is worthwhile for both parties to take deep breaths and consider these steps. If either the physician or the healthcare provider no longer wishes to continue the relationship, a calm and well-informed approach can resolve the situation and help both parties avoid expensive litigation.

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