Physician Employee Contract & Shareholders Agreement

Have you ever wished you had a chance of doing something different in your life? If you had a chance for a “Do Over”, what would you change?

Most of us have had events or circumstances that have occurred in our lives that we might have changed or asked for a “Do Over”. These events could center on your medical practice, business decision, investment decision, family or staff in your office.

As an Administrator, one of the most important areas in a physician practice is to bringing on an associate into the practice. Hiring a new associate physician is critical to every medical practice and it must be done right. You should ask yourself, why do you want a new doctor in your business? Do you have too much demand for your services? Are you opening a new office at a different location? Do you think you can make more money with a new associate? Or are you considering retiring and slowing down in the next five years?

Regardless of your reason, when hiring a new doctor you need a specific written employment agreement. An employment contract for a doctor you may ask? The answer is a resounding– YES !

The employment contract should include the following items:

A statement specifying the relationship between the Practice and the physician. Is the physician an employee or associate? Either way, you need to include another statement that the physician agrees with this relationship. This agreement must be signed, dated, witnessed and notarized.
Don’t forget to include the period of time for such an agreement and specify if it is to be renewed annually and contain provisions for automatic renewal in its original form unless the agreement is changed and agreed to by all parties.

A statement defining the expectation of the new doctor? Again, this must be in writing to avoid any misunderstanding in the future. Likewise, what is the practice expectation of the new doctor? Such examples could be seeing patients in a timely manner, completing medical records within 48 hours with complete and accurate documentation that agrees with the billing and coding requirements for the medical chart, attendance at periodic meetings of the practice and continuing education meetings. Also, do not forget t address the number of days allowed for attendance at professional seminars regardless, if the doctor is a speaker or an attendee. There should also be verbiage that the physician maintains all required licenses to provide medical care from all local, state and federal authorities as applicable to the doctor’s specialty.

The compensation plan is of high importance as well. Does the plan allow for bonus calculations, if the doctor is entitled to incentives and who decides the amount and when the bonus is paid.

Various disciplinary actions must be included. What happens if the doctor takes an excessive amount of time off or does not produce /collect enough money to pay for his overhead? Does the doctor get paid less? And in what time period does this happen? Do the other partners pay for this shortfall and for how long? Some of the circumstances that need to be addressed are issues like health, disability, family emergency, military commitments or just lack of motivation. Although some of these topics might be very uncomfortable to discuss with a new associate, they must be included in order to insure there is no misunderstanding in the future.

<u>Parameters for termination of the Employment Agreement.</u> The document should list disciplinary steps that would be taken prior to suspension or termination “for cause” situations. This also should be in writing to avoid any future complications or legal issues. In addition, language covering the topic of termination for “no cause” should be included.

It is not uncommon to have credit checks on employees. I would recommend a credit check be performed on any new doctor or associate joining the practice. If a doctor cannot manage his financial affairs how is he to manage his office and care for his patients? The associate that is chronically short of cash or lives beyond his or her means could be a risky venture.

Mentoring

A mentoring program must be established for at least a minimum of two years with periodic meetings with the senior or managing partner. The new doctor should meet with the mentor at least monthly. You may say the doctor is a professional, and that is not necessary. I would present to you that every medical practice is different and to insure a smooth transition mentoring should be implemented.

The mentoring program should include patient care topics, systematic documentation of medical records, interpersonal skills with the staff, as well as understanding the necessary business operations and financial reports. How does an employee doctor know if he or she is performing satisfactorily or not? Please do not wait for a patient complaint, a staff revolt, a patient death, or a malpractice suit to find out about problems.

Recommendations

- When hiring a new employee physician, written business policies must be in place and reviewed with the physician prior to hiring this individual.

- The new doctor should <u>not</u> be permitted to establish his or her own schedule.

- Time away from the office should be approved by the President of the practice or the mentoring partner in order to assure total coverage for all patients. This includes all vacation, continuing education, donation of time at residency programs or local free clinics, leave for family emergencies or maternity leave.

- Do not provide the new physician employee with a corporate charge card. Any business expenses incurred can be reimbursed after the proper receipts and documentation are submitted and approved for payment.

- Do not allow the new associate to have signature capability on your bank account and do not allow debit cards for the benefit of convenience. In the event of an undesirable separation, this could cause unnecessary complications.

- Verify the calculation of any compensation amounts or separation pay. Do not rely on your outside advisors. This is your contact, not theirs. Also, document how the amounts were calculated and put this information in your files, so years from now, it will be very simple to review and understand the calculations of all the amounts. Do not take for granted that your CPA, attorney or advisor calculated the amounts correctly. Verify all amounts…..enough said.

- The Employee Agreement needs to adequately address the restrictive covenant. The distance from an existing office must be reasonable and the time period must not be excessively restrictive. Consideration must be given to contacting the existing patients and the ownership of the medical records.

Conclusion

Ignoring the problems and unfavorable behavior or habits of a new doctor employee will not make the problems go away. These problems, in fact, will actually multiple and get worse. Do not put your head in the sand and hope the situation improves.

Take the time to review your Employment Agreement, NOW, before you have a problem and wish you could have a "Do Over". If you do not want to address it, have an external change agent address this very important area of your business. Use your corporate attorney, CPA, or the Administrator of your practice.

Finally, remember that a new physician may not make a good partner for your practice. The qualities that make an excellent associate (clinical skills, patient acceptance, the ability to get along with staff, etc.) are also needed to make an excellent partner. In addition, look for integrity, willingness to compromise, willingness to work and a good control of his or her finances. As an Administrator or Manager, we are called on to assess the new physician and to review all the attributes needed to be a successful member of the group. We are just one set of eyes. Do not hesitate to use all your resources such as the other physicians and managers in your group to get a complete picture and to avoid for the dreaded "do over".

Charles Kogler, FACMPE