

Is Your Group in a Hospital Professional Services Agreement (PSA)? Are You Employed by a Hospital?

How to Unwind Your Hospital PSA or Employment Agreement so that You Can Benefit from a Potentially Lucrative Private Equity (PE) Transaction

It All Depends on the Terms of Your Existing PSA or Employment Agreement with the Hospital

Two Key Threshold Considerations:

(1) When does the current term end?

- Is 12 months' (or other) advance notice needed to avoid auto-renewal?
- Is there a right to terminate at any time with 12 months' (or other) notice?

(2) What are the terms of any binding post-termination non-compete?

- Some only restrict "deals" with competing hospitals & allow private practice.
- Others don't allow private practice within a certain region (e.g., a mile radius), in which case you can either:
 - If feasible, establish a practice (in partnership with a PE platform) outside of the covered region; or
 - Depending on the importance to the hospital of the group of specialists who are joining you in the PE partnership, request that the hospital waive the noncompete **and** enter into an agreement for ongoing clinical services (e.g., on-call coverage, directorships, etc.)

5 Key Operational Issues for Unwinding a PSA or Employment Agreement

1. Is there a post-termination “transition” provision that allows you to:

- Buy back any practice assets that were sold to the hospital, or
- take over office leases for practice locations?

2. Are all of your “partner physicians” aligned in transitioning to a private medical practice via a partnership with a PE Platform?

- If possible, a small subset of similarly situated physicians who are strongly committed to leaving should oversee the effort as **confidentiality is key**.
- There are a lot of ‘go’/‘no-go’ decisions along the way, so all such “partner physicians” should be aligned in the overall process & updated along the way.
- You need to establish a reasonable understanding of the ‘valuation’ of the group in connection with a partnership opportunity. A qualified investment banker or strategic advisor can help with this process.

3. What EMR will you use? Will the hospital allow you to “lease” its EMR on reasonable terms to the practice, will you use the PE platform’s existing EMR, or will you (along with the PE platform) need to secure an alternative EMR?

4. Commercial Payor Agreements? If you are not joining an established PE platform, the new PE partner will need to establish key commercial payor agreements with the practice to “go live” on the date of the termination of the PSA or employment.

5. Choreographing each step is crucial:

- **Confidentially** signing and closing of the PE partnership transaction
- Provision of notice to the hospital of the PSA or employment termination
- “Go live date” of the private practice in partnership with the PE platform

What to Do After a Deal Is Signed and Closed with a PE Platform

- Re-assure the hospital of your continued commitment to it and its community and that there are **no downsides** to the hospital due to someone else paying a large amount of money to allow the physicians to monetize the practice value.
- Assure continued alignment with the hospital. This means that you →
 - will continue providing services to the hospital's patients on a seamless basis;
 - can enter on-call, directorship, and other ongoing agreements with the hospital for various administrative services; and
 - could enter other potential joint ventures with the hospital.

For hospital-employed physicians this can be an exciting process and feel highly entrepreneurial!

Each step can give you insight into to actual numbers and revenues you could achieve in private practice partnered with a private equity backed enterprise

- Some hospitals are now open to some sort of "joint venture" in this effort, as they realize that Private Equity is becoming a big part of the healthcare specialty market
- A qualified advisory team can create a roadmap for the group of physicians, which should include a pro forma valuation, key milestones for exit, and competitive (yet collaborative) discussions with various potential PE partners.