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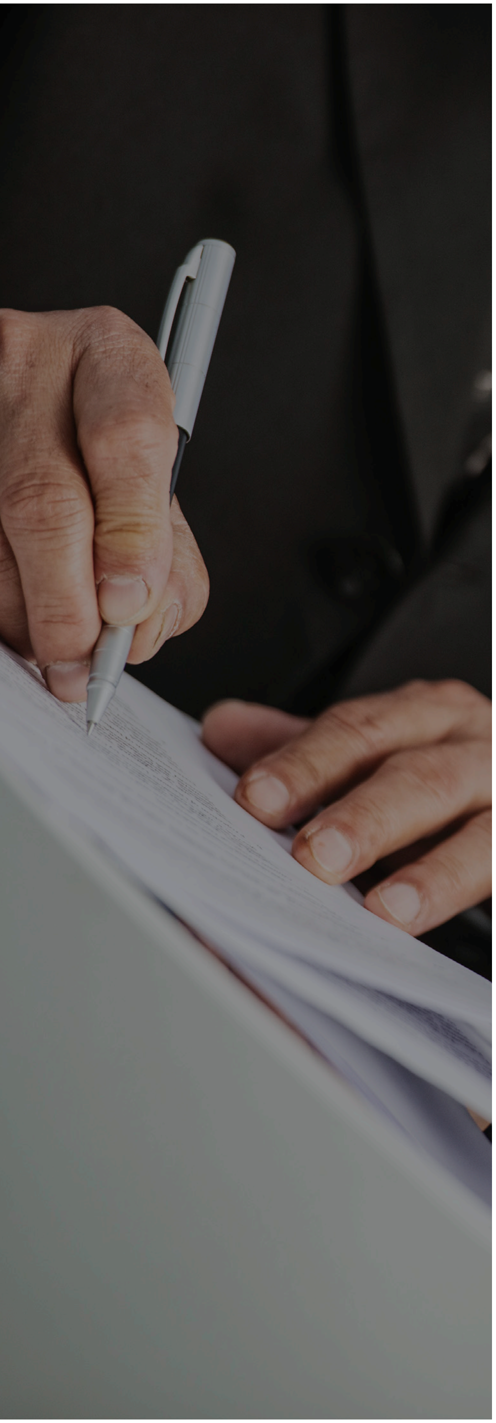
7 Signs Your Organization Could Have Risky Physician Contracts



In our role as advisors and experts in physician compensation, we've worked with organizations that have significant physician contract challenges.

Here are seven signs that indicate an organization could have risky physician arrangements.

1 Lack of formalized physician contracting processes

Without a comprehensive approach to physician contract compliance, contracts can slip through the cracks and documentation may lapse. If you have no internal process for FMV determination and documentation, you cannot be confident that your arrangements are compliant.

Key elements of a physician contracting compliance program include:

- Executive oversight
- Contract management
- Financial analysis
- Compliance checks
- A consistent process for determining and documenting FMV

Two federal regulations impact physician payments: Stark Law and the Anti-Kickback Statute. Under these regulations, a third regulation called the False Claims Act could be invoked for services billed under non-compliant provider arrangements.

2 Unfamiliarity with the risks

The consequences of non-compliant physician arrangements can be devastating. In 2015, Adventist Health System settled for $118.7 million in a case involving illegal physician referrals, the largest Stark Law settlement in history. In 2014, Halifax Health settled for $85 million over a case involving illegal payments to physicians. The Anti-Kickback Statute is a felony, punishable by a $25,000 fine

and up to five years in prison. Stark Law violations could result in a $15,000 fine per inappropriate referral. If your organization doesn't fully understand the consequences of non-compliant contracts, they may not have the motivation to adhere to federal regulations.

3 No executive-level support for physician contracting

It's not a good sign when executive leadership isn't concerned about physician contract compliance. These organizations don't have a good sense of their overall physician contracts and are generally more vulnerable to non-compliant arrangements. Tone comes from the top—if your organization's top executives don't prioritize compliant arrangements with physicians, no one else will.

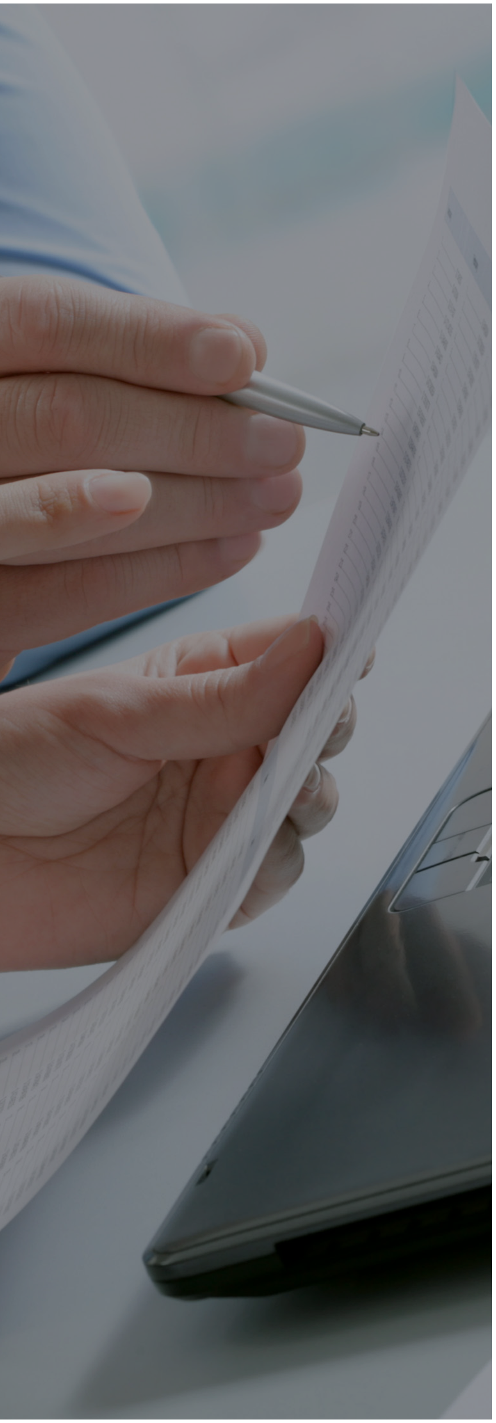
> *"It's surprising when executives are cavalier regarding excessive physician payments. There's too much at risk. All healthcare organizations need a process to assure compliance across physician arrangements."*
>
> – Allison Pullins
> *Chief Marketing Officer, MD Ranger*

4 Assuming you *must* pay physicians when asked

Just because a physician asks for compensation doesn't mean she should receive it. Organizations must demonstrate that payment for a service is commercially reasonable and document justification for the decision. MD Ranger's "Percent Paying Tables" can help determine if compensation for any given physician service is appropriate. Explore alternative ways to compensate instead of always relying on a "per diem" payment. Consider an activation fee, a per episode payment, or an unsponsored payment rate to make up for poor payer mix.

5 Consistently paying high rates across physician services

As your organization audits contracts, note any trends. How many contracts are above the 75th percentile? There are sometimes good reasons to pay at the higher end of the market range, though no organization should do this as standard practice. If there are more than a handful of physician contracts at or above the 90th percentile, your organization could have a compliance issue.



If your organization is in the beginning stages of creating a physician compliance program, review all physician contract rates and determine where in the market data each one falls. Consistently high rates need revision or at least a plan to lower rates.

6 Higher aggregate spending on physician contracts than similar organizations

Non-employed physician contracts are now a sizable chunk of a hospital's operating budget, falling between 4–6% of total operating expenses. Use benchmarks to compare your organization's physician spending to peers.This high-level analysis could uncover systemic issues, such as frequently negotiating commercially unreasonable agreements, or payments above fair market value.

7 Thinking your hospital is "exceptional"

Yes, all hospitals are different; however, not so different that you can't compare like organizations. No matter how special an organization is, benchmarks from similar hospitals should still inform decision-making.

Beware of defensive reactions to benchmarks. If this is the attitude in your organization, face the facts and develop a plan to confront compliance issues.

Strategic physician contracting management should include both monitoring and auditing. If you are doing neither, you are at risk.

Do something about your non-compliant arrangements: email us now at **compliance@mdranger.com**

MD Ranger is a benchmarking company that helps hospitals analyze, negotiate, and document physician contracting compliance through robust market data. Hospitals that use MD Ranger data within their physician contracting programs create a more efficient, cost-effective way to establish and document FMV.