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Compensation negotiations with members of your medical staff are rarely easy. In the most difficult situations they can be fraught with tension and disagreement. Defining a standardized process and standards can help, and thorough preparation is essential.

As a hospital leader, how you conduct yourself and represent your organization in contracting negotiations matters and can set the tone for an effective contract resolution. Use the following tips to prepare for negotiations to facilitate the best outcomes for everyone.

## **Do Your Research.**

Before starting negotiations, familiarize yourself with the contract and with the market ranges for the payments for the specialty and service in question. Generally accepted fair market value guidelines suggest a target range between the 25th and 75th percentiles of market data. However, someone has to fall above the 90th percentile and someone has to fall below the 25th percentile. Before entering negotiations, you should have a good idea of how your institution and the physician compare to the “typical” provider. Facility characteristics such as trauma status and bed count can have an impact on determining where in the range of market data is appropriate for the particular contract. Consider all aspects of the agreement – annual payment rate, hours, hourly rate, stipends, call coverage, performance metrics,

etc. and be familiar with all paid relationships the physician and her group has with your organization. Also be familiar with past performance of the individual and needs of the particular service to ensure quality metrics are appropriate, measured, and impactful.

## **Consider Agreement Scope.**

All positions are not created equal and should not be considered equal when determining payment. Consider the scope of what is included in the agreement. Is the position for a department chair in an existing program or does the position require the physician to start a new program? These two examples are likely going to have differing time commitments; therefore, they should not be considered on the same playing field as one another. Hospital size and other characteristics may also drive scope and time, but documentation is key if the proposed number of hours is beyond your standard criteria.

## **Acknowledge the Nuances of the Situation.**

Situational details of the position (intensity of workload, exclusivity) or of the hospital (payer mix, trauma status, hospital size) may distinguish a contract from other contracts. If this is the case and these factors have not been considered, you might be

paying too much or not enough. Agreements that are at the high or low extremes of workload or payment may carry compliance risks--particularly if the service has a comparatively lower workload than the typical contract, or if the arrangement results in significantly more professional revenue for the physician.

If you are dealing with an exclusive contract for a hospital-based service, there are special considerations due to the 'franchise' granted for professional services. Expertise and judgement are important to assessing risk; knowing when to consult an expert to assess and document compliance is important to administering an effective compliance program.

### **Identify Where You Can Compromise.**

Before you begin negotiations with the physician or group, discuss internally what you are willing and able to pay and where you can compromise to reach an agreement. Your negotiation objectives should remain consistent with fair market value, as well as be consistent with your organization's overall guidelines for physician compensation. MD Ranger publishes benchmarks for total physician contract expenses by facility by type of contract, which is an excellent way to gauge if your organization is in line with peers.

### **Consider Alternatives.**

Before negotiations begin, take a moment to consider what alternatives exist. Discussing alternative approaches to meeting the service requirements can often yield savings or more efficient

ways to achieve the same objectives. It can also open the door for both your organization and the physician to discuss their challenges and needs. Is the group short staffed? Are there documented challenges to covering the emergency department? Have the program objectives been achieved? The definition of fair market value includes the provision that "the price...between a willing buyer and a willing seller, neither being under the compulsion to buy or sell". A good fair market value evaluation will simulate what would result from an actual competitive process, even if there isn't one.

### **Document, Document, Document.**

One of the most important aspects of compliance and protecting your organization is thorough documentation. Documentation can include written agreements for services, market data demonstrating FMV payment ranges, FMV opinions written by consultants, emails showing negotiation, written proof of special circumstances such as physician expertise or program needs, etc. Always err on the side of more rather than fewer supporting documents about how and why you reached the terms of the final contract.

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