

Finding the Perfect First Job After Residency or Fellowship

Nancy Poblentz, DDS, JD
Senior Counsel
CommonSpirit Health



Objectives

1. Identify Key Contract provisions
2. Learn When and What to Negotiate
3. Recognize Risks and Subjective Language
4. Understand Components of Total Compensation
5. Identify Different Benefits and Compensation Structures
6. Understand Termination, Term of Agreement, Insurance and Restrictions
7. Understand importance of hiring a Healthcare Attorney



The JobSearch



- Take time to carefully evaluate professional and personal goals before starting job search.
- Start Early: a minimum of 10 months prior to completion of residency or fellowship.
 - Priorities: Family, spouse, income, lifestyle, work culture?
 - Keep options open; be patient, wait for what you want.
 - Update CV and review your digital footprint.
 - Identify your deal breakers:
 - Things you need to be happy and things that will actively make you unhappy.
 - Be brutally honest with yourself.
 - Make list of objective criteria.
- Location, location, location – one of the most important considerations.
 - Do not interview where you or your family do not wish to live!

Interviews

- Schedule multiple interviews to have options
- Site visits:
 - Costs paid or reimbursed?
 - Bring along significant other if considering relocation
- Review online information on interview skills
 - Consider your answers to typical questions
 - Bring list of questions for interviewer
 - Consider impact of divulging too much personal information
 - Child care, family planning and parenting
 - Family living in area



Difficult Interview Questions

- The following questions may appear casual but maybe unlawful to ask you:
 - Do you have children? How many? What are their ages?
 - What are your childcare arrangements?
 - Are you single, engaged, married or divorced?
 - Do you have plans to start a family or add to your family?
 - What does your spouse/significant other do for a living?
- Faced with inappropriate questions you can:
 - End interview
 - Answer– going with transparency to gauge employer's response
 - Sidestep
 - State not comfortable answering and quickly.....
 - Redirect by asking about underlying intent such as scheduling conflicts or ask how the question is relevant to the job.



Interview Discussion Points

- Ask for specifics of what is expected in the professional relationship, which includes salary and benefits information plus other points including:
 - Proposed start date.
 - Hours expected to work / what constitutes full time employment / schedule flexibility.
 - Expected availability and on call hours.
 - Practice membership status / partnership options.
 - Administrative duties required.
 - Composition of team – RN, LVN, front desk, practice manager
 - Which hospital is practice affiliated with?
 - Does practice have business/strategic plan?
 - Total value of benefits package.
 - Non solicitation/ non compete/restrictive covenants.
 - Compensation amount and structure.
 - Advertising and marketing of practice.



Take Time to Understand

- Review contract and negotiate in terms of:
 - Must have.
 - Like to have.
- Ask a Variety of Questions:
 - How long in business, expenses, revenue, debt, financial future, payer mix?
 - What is practice turnover, percentages of physicians employed v partners.
 - How long to make partner.
 - Malpractice claims, pending litigation, and
 - Financial stability of the practice/partners.
- **Read every word of the agreement – if it is not in the contract it does not exist.**
- Accept no ambiguity in the agreement.
- Do not be pressured into signing agreement before you understand and agree with all the terms and conditions – you are bound by the contract whether you understand it or not.
- Specialties in demand or less desirable location = more negotiating power.
- Hiring a healthcare attorney to review a contract is an added cost HOWEVER, the consequences of signing a long-term contract you don't understand can be much more taxing on your career, your finances and your life/ family.
- **Seek advice from an experienced health care attorney in the state in which you plan to work.**
- Identify and resolve problematic contract provisions before they become an issue.



What Does Job Flexibility Look Like?



- Jobshare opportunities in which physicians split/share duties with a colleague.
- The ability to adjust schedules as/if personal issues arise and to pursue starting a family without being penalized.
- Pro-rated FTE status, such as .5 FTE to .625 FTE arrangements, that allow for more personal time.
- Fewer restrictions on the amount of time physicians can spend with patients.
- Shorter work weeks, such as a four-day week, or nontraditional schedules that permit physicians to take off half days some weeks.
- Hybrid work weeks—this might translate into a telemedicine-heavy schedule or the ability, as clinical responsibilities permit, to work from home some of their nonclinical time.

The Details are Important

- **Define expectations for work hours and duties:**
 - Services, procedures, administrative duties.
 - What is FTE? Number of hours in patient facing capacity and time for administrative duties.
 - How are patients assigned/how many expected to be seen each day?
- **Know requirements for on call responsibilities:**
 - Additional compensation?
 - Watch for subjective terms like “call arranged on fair basis” or “appropriate basis”. Must be equal!
 - Maximum hours each month required.
- **Outside activities:**
 - Allowed to work outside the practice, including such non-patient care activities as research, publishing articles, teaching, consulting, and directorships?
 - Retain income from outside activities?
- **Indemnification terms must be reciprocal.**
- **Intellectual property ownership:**
 - Includes social media following.



Caution:



- Practice always reserves the right to assign patients to its employed physicians.
 - Can have a significant impact on your ability to grow practice if the physicians with longer tenure are given the first opportunity to take on new patients.
 - Document in agreement how new patients to the practice are assigned.
- Important provisions:
 - Employer entitled to expect adherence to various policies and procedures; be sure to specify policies and procedures must be in writing.
 - Common to contain fairly one-sided vague statements such as: that you will “*work diligently*” and use your “*best efforts*” in performing your duties. **AVOID THESE TERMS**
 - Review carefully any provision that employer may reserve the right to dictate to you how to perform your duties.
 - All statements should be tempered with the expectation of your exercise of independent medical judgment.

Can I Negotiate the Contract Terms?

Step out of your comfort zone!

- Not everything can be negotiated but it never hurts to ask - In competitive markets there is much less flexibility in contract terms.
- Generally, larger corporate or large practice group employers are less willing to negotiate.
- **Never sign letter of intent prior to completing negotiations.**
- Agree to all terms before you receive written offer.
- There is no “standard” physician contract; all are unique however:
 - Corporate employers generally have a contract template used for physicians with non negotiable terms.
- Be well informed about industry standards
- Take time to consider the offer; **beware of offer which has very limited response time.**
- Remember your priorities and deal breaker points
 - Money/ Benefits
 - Flexible schedules, 4 day workweek, and remote/telehealth options
 - Career Advancement
 - More one on one patient time, dedicating charting hours, and paid time for EHR maintenance



Compensation Overview

- Most compensation models are primarily based on either a salary or a net gross revenues basis with some type of bonus or incentive component.
- Ask for a detailed illustration of how the plan works in practice.
- Physicians starting out will usually be compensated with a salary plus a bonus or incentive of some type
 - What is the incentive or bonus, and when and how does it kick in?
 - The way an incentive plan is structured is more important than the amount that it's available



Straight Salary
Minimum income Guarantee
or Salary Plus
Bonus/Incentive



- Fixed amount.
- Not determined by hours worked or number of patients seen.
- **Caution:** If you are accepting a salaried job and you are expected to work 60 hours a week that could be a problem.
- Make sure the compensation package matches your expectation of number of hours that are generally required each week for work.
- **Always:** Negotiate for salary increases annually.



Salary Plus wRVUs



wRVUs converted into compensation total by a conversion factor and used to evaluate physician productivity

■ **Caution:** Understand how new patients are assigned - you cannot exceed the threshold if you are not provided sufficient number of patients or are only provided certain types of patients.

- Paid set amount, lower than fixed salary.
- Additional compensation for wRVUs in excess of certain threshold

**Production- or
productivity-based
compensation**



The overhead costs of the practice
— both fixed and variable — are
allocated among the physicians in
the practice.

- Paid a percentage of either billings or collections, or are paid based on the wRVUs assigned to procedures or patient-visit types.
- Must consider relative percentages of commercially insured, Medicare/Medicaid, and uninsured patients seen in the practice, as well as how new patients are assigned.
- A physician whose patient base consisted primarily of Medicare or Medicaid patients would earn less than a counterpart whose patient base was primarily commercially insured, as Medicare/Medicaid reimbursement tends to be the lower of the two.

Summary of Salary Considerations

- Evaluate Salary offer in context of:
 - Expected Hours, including call
 - Travel
 - Advancement/Partnership
 - Flexibility
 - Culture
 - Restrictions (restrictive covenants and outside work)



Annual Bonus Payments

- Eligibility language must be objective and measureable.
- Beware vague language: “Opportunities for bonuses, which shall be provided at the **sole discretion of the Members of the Practice**, are available twice yearly, and will be evaluated, among other factors deemed pertinent by the Members of the Practice,...” or “will be determined by the practice at its discretion”.
- Always negotiate for a bonus at least annually.
- Written benchmarks/ targets – trend from quality metrics to productivity such as RVU production above certain level.
- Amounts:
 - Usually % of salary in 2024-2025 average 16%

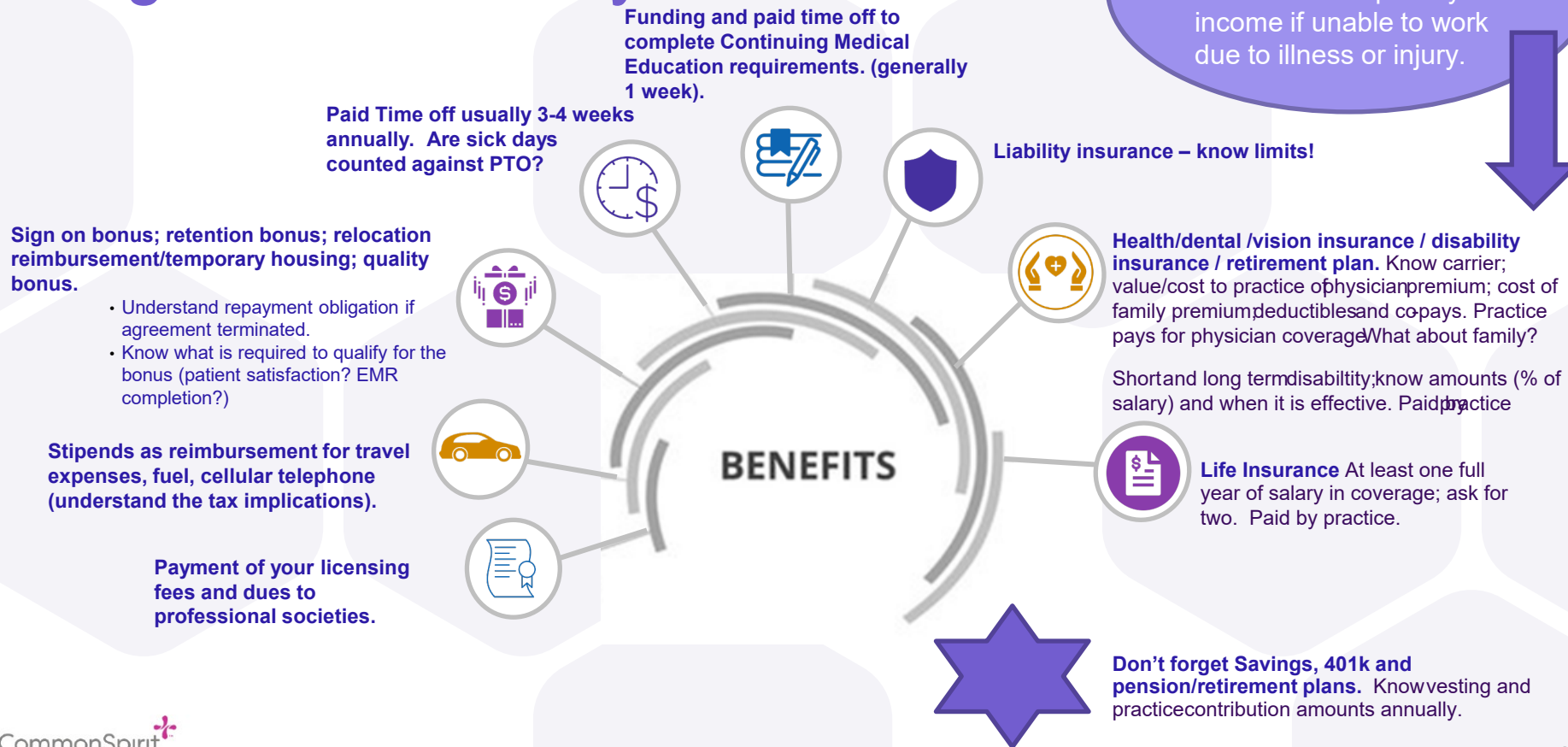


Benefits

- More than just medical insurance.
- Beware of vague language such as “we provide all the usual benefits”.



Total Compensation Includes Benefits Package and Other Payments



Vacation/Paid Time Off

- How much paid vacation time annually?
(15-20 working days is the norm).
- When do days vest?
- Paid if leave practice?
- Do all unused vacation days roll over to the next year?
- How many sick days paid per year?
(5 days is the norm).
- What are the paid holidays?
- Do I receive additional paid days for CME?
(5 days is the norm).



Benefits: Other Considerations

- Evaluate benefits in addition to salary, because a good package can make up for a lesser salary if you're saving substantial money on health care and have a large amount of vacation time or a flexible schedule.
- On the flip side, consider how much a poor benefits package can cost you; paying a lot out-of-pocket for high premiums, deductibles, co-pays and family premiums can take a big chunk out of your salary.



One Time Costs Can Be Significant

Negotiate for Reimbursement

- Special instruments or supplies
- Initial marketing
- Website
- Signage
- Printing (such as business cards and brochures)
- Medical Staff privilege fees
- Office computer equipment
- EMR license fees



Other Costs and Expenses are Negotiable

- Lab coats plus cleaning costs
- Scrubs
- Personal Laptop/ Tablet
- Cellular telephone and plan costs
- Mileage reimbursement to clinic sites
- Stipend for personal vehicle use
- CME costs plus expenses for travel and hotel (beware of limits)
- Licensure, professional dues, memberships
- Corporate account for meeting clients/ marketing



Other Compensation

- Student loan payments (may be seen in recruitment agreements)
- Signing Bonus
- Moving Expenses
- Temporary Housing
- Paid medical coverage for dependents
- Matching 401k contributions



Negotiate to Retain Income from Other Sources

- Call coverage
- Hospital medical director duties
- AP supervision
- Hospital committee membership

Beware of language such as: “All fees received for professional services including, without limitation, honorarium, consultant fees, research studies and patient care rendered by Physician, whether billed by the Physician or by the Practice and whether received by Physician or by the Practice, **shall be owned by the Practice**”.



Income Guarantee or Recruitment Agreement:

- Paid by Hospital as loan to physician or private practice group and physician
- Contract between hospital, practice and physician
- Inducement to attract physician to community
- Signed after employment agreement with physician practice
- Terms generally 1/3: a 1 year loan requires an additional 3 years in community for forgiveness
- If leave area before loan forgiven, must pay the loan back to the Hospital
- **You will be sued by Hospital** if you default
- Never sign without **healthcare attorney** review and consultation



Path to Ownership / “Partnership”

Request the
Details!

- Key negotiating point.
- High demand specialties usually quicker path.
- May be automatic after certain number of years.
- Watch for subjective terms like “meeting expectations of group”.
- Actual terms of the ownership buy-in will be stipulated in separate “buy-sell” and/or “partnership” agreements, usually not signed until ownership takes place in subsequent years.
- **The longer the route to partnership means less long term earning potential**

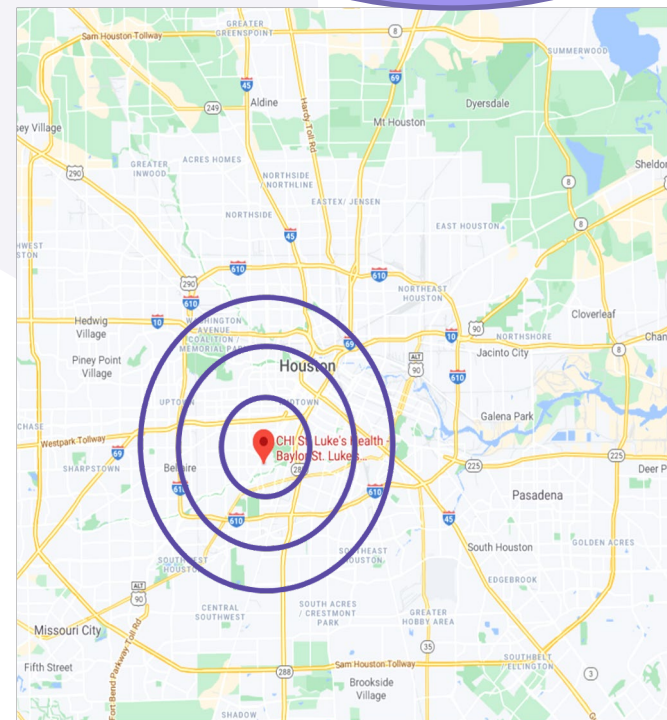


BE SURE any implied ownership options or assurances discussed during the original employment negotiations are clearly spelled out in the written employment contract.

Non Compete/Restrictive Covenants

Impairs freedom
to change jobs!

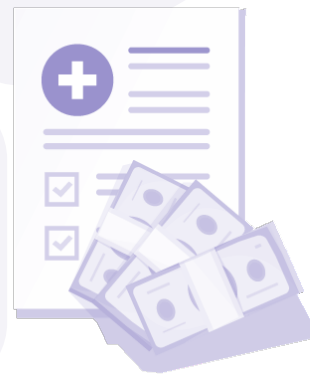
- Cannot go to work for competitors during a specific period of time or cannot practice within a defined mile radius of the employer.
- **New FTC rule banning restrictive covenants- legal challenges.**
- Cannot have non compete in employment agreement if there is recruitment agreement with hospital.
- A “non-solicitation” clause prohibits the departing physician from actively seeking to attract patients, employees, and health plan contracts away from the former practice.
- **If you have non compete, negotiate to limit scope and duration.**
- Some states (Texas) require buyout provision, usually total gross compensation for last 12 months



Repayment Obligations

- Carefully review narrative in Compensation section.
- Watch for language such as:

“You agree....may deduct from any compensation due to you, including from your final paycheck any amounts you owe including....for repayment obligations under loans, sign on or retention bonus, cost of lost or damaged equipment or materials,or any other lawful purpose permitted by law”.



In Summary: Understand Restrictions

Fees

Payment Retention

Referrals

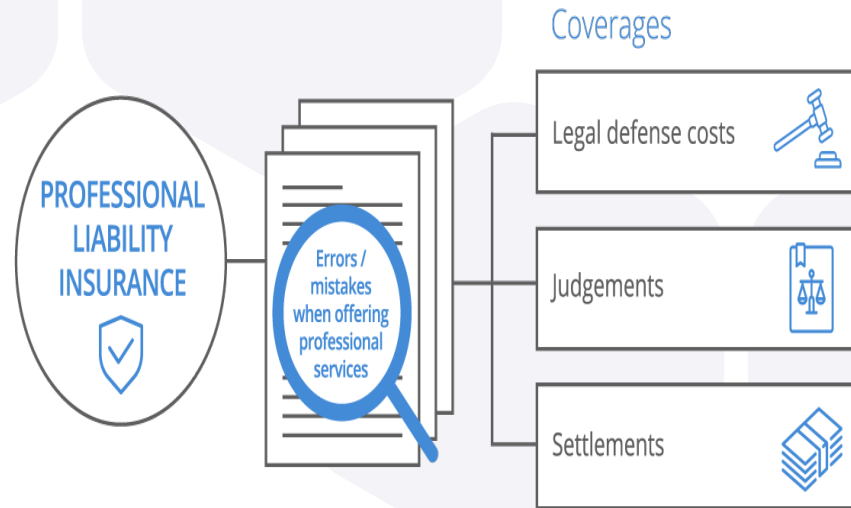
Payments

- Practice owns all fees generated.
- Agreement only allows work for employer.
 - Practice retains payments for related medical service such as speaking honoraria, medical director fees.
- Must refer inpatient and outpatient healthcare per employer policy.
- Assignment to employer of all rights to bill and receive payments for services.



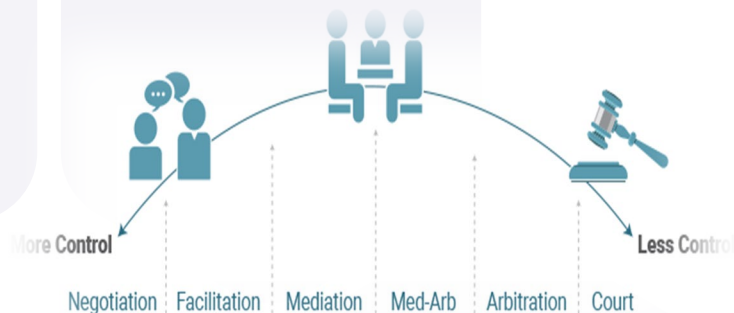
Professional Liability Insurance

- **Understand type of coverage:**
 - Occurrence or claims made
 - Occurrence means claims arising from patient care on behalf of employer during policy are covered no matter when reported
 - Is paid tail coverage provided for claims made policies after termination?
- **What are the limits of coverage?**
 - Know annual and aggregate limits
 - Recommend minimum \$1 million/\$3 million coverage
- **Watch for Vague Language** ‘The Practice shall maintain professional malpractice liability insurance from a commercial carrier covering the Physician and the Practice against claims arising out of the performance of this Agreement’s professional medical **services in the minimum amounts required by law...**’,



Conflict Resolution

- Understand mandatory mediation and/or arbitration provisions:
 - Arbitration lacks formal evidence process.
 - “All conflicts must be resolved through arbitration”
 - Decision of an arbitrator and is binding – no appeal!
 - Arbitrator may be biased or not understand healthcare issues.
- Mandatory provision is generally enforceable
- Often more favorable to employer/ practice
- Determine if you want to waive right to a jury trial.
- Be aware: Binding Arbitration is not always the simplest, quickest or least costly solution – may be MORE costly than litigation!



Term and Termination

- Term of employment is usually one year, with renewal provisions.
- Contract should make absolutely clear under what circumstances you may be terminated.
- Generally, two types of provisions relating to termination: **with cause** and **without cause**
 - **With cause** termination:
 - The employer has to provide clear reasons for ending employment, typically includes loss of hospital or prescribing privileges and inappropriate conduct.
 - Terms need to be specific. "**Unable to meet patient needs**," is a subjective phrase that can be open to wide variety of different interpretations.
 - In Employer's "**reasonable judgment**" is also subjective, require more specificity.
 - Usually immediate.
 - Should include opportunity to cure (notice of violation and time to remedy).
 - **Without cause** provision:
 - Allows the employer to terminate you for no stated reason whatsoever.
 - Should include severance provision.
 - Without cause should be reciprocal to also let the physician terminate with no stated reason, as long as written notice given.
 - Notice of termination given in writing from 30 to 180 days in advance.
- A longer notice period is preferable from the physician's perspective, to allow a proper amount of time to find other opportunities.



**What payments
are due to you
after
termination?**

**Unused
vacation?**

**Compensation
based on
collections?**

And What About Taxes?

- Tax planning helps hard-working physicians take advantage of all the tax deductions, tax credits and tax exemptions that Congress and the Internal Revenue Service will allow.
- Understand all the tax consequences of your compensation arrangement.
- **Recommendation: Do not Delay!**
Hire a CPA/ Tax Professional now.



What is a Healthcare Attorney?

- Has expertise in: Stark, Anti-Kickback, Federal False Claims, Healthcare Regulatory/ Compliance, EMTALA, Physician Compensation Agreements, Physician Professional License Defense, Hospitals, ASCs, Health Systems, IRBs, Credentialing, Peer Review (review website carefully and ask questions).
- It is not an attorney who represents injured patients or hospitals in medical malpractice actions.
- It is not a general practice attorney who advertises handling business contracts, family law, criminal law and probate.



The Offer:

- All offers should be in writing.
- When you receive the offer, you don't have to sign the agreement immediately.
- Ask for time to review even if you think you will accept.
- If it is important – negotiate!
- If not familiar with location explore community on site visit.
- Recommend - consult with a **healthcare attorney** before signing. The attorney may assist you in negotiating terms of the offer.



The Offer: Beware of Vague, Confusing and Ambiguous Words/Terms

- Reasonable/ Reasonably
- Substantial/ Substantially
- Satisfactory
- Prompt
- Undue/ Undue Delay
- Properly
- Good Faith
- Material
- Persistent
- Recurrent
- All Appropriate Measures
- Fair
- Closely



Sections from actual physician employment agreements

- “Employer is **entitled to adjust such salary** as a result of Employee’s failure to timely and accurately complete medical records and other records with respect to services and treatment rendered to any patient seen by Employee pursuant to Section 1.10 or other failure by Employee to complete clinical notes in a **timely manner** that results in Employer’s inability to file an insurance claim with a patient’s insurance company or denial of an insurance claim by a patient’s insurance company”.



More....

- “Employer shall provide **medical health insurance benefits** for Employee”.
- “.....nothing contained in this Agreement shall be construed as requiring Employer to provide Employee with a **minimum patient flow**, with minimum patient revenue or restrict Employer from discounting Employee's fees, charges or disproportionately allocating Employee patients with lower capitation rates”.



And finally



- “If the relationship between the parties to this Agreement **proves satisfactory**, at or before the one (1) year anniversary of the agreement both parties (as determined in the sole discretion of each party to this Agreement), the MEDICAL GROUP **may** offer Physician an opportunity to become a shareholder-employee of the MEDICAL GROUP....”

Other thoughts

- Everyone has a different set of personal circumstances.
- What might be the perfect job for you could be an awful job for someone else.
- Take the time to review the pros and cons and listen to your gut; if your inner voice is telling you not to take the job, there just might be something there.
- If this isn't the right job for you, it's not the end of the world. The next offer might just be that perfect match.
- It's much easier to turn down an offer than it is to leave a job that you have already started.
- Ask yourself if this job excites you, if you think you'll excel at it, and whether it will advance you on your career path.
 - You need the right support such as referrals and marketing;
 - A mentor for questions;
 - A career pathway that meets your personal goals; and
 - A job that fits with your life plan.



“You can only become truly accomplished at something you love. Don’t make money your goal. Instead, pursue the things you love doing, and then do them so well that people can’t take their eyes off you.”

Maya Angelou



Nancy.Poblencz@commonspirit.org