

Maximizing Value and Reducing Risk in Your Practice – Session 1

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Webinar Series

- **Session 1 – Today:**
 - Choice of entity
 - Succession planning
 - Private equity concerns
- **Session 2 – September 26:**
 - Non-competes
 - Relationships and agreements among equity members
 - Bonus plans
 - Employment agreements
- **Session 3 – October 10:**
 - Compliance and risk mitigation for labor & employment and generative AI



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Front End Planning – Why It's Important

- Reduce risk
- Minimize tax
- Have structures in place for succession planning, continuation of business, etc.



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Front End Planning – Form of Entity

- New York Restrictions on Form of Entity
- Types of Entity
- General Considerations:
 - Who will own?
 - Who will participate?
 - Who will manage?
 - How to minimize taxes?
 - How will equity holders come and go?



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Choice of Entity

Option One – Limited Liability Company

- Ownership
- Taxation
- Liability
- Management
- Distributions
- Formation and Governing Documents



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Choice of Entity

Option Two – S-Corporation

- Ownership
- Taxation
- Liability
- Management
- Distributions
- Formation and Governing Documents



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Choice of Entity Option Three – C-Corporation

- Ownership
- Taxation
- Liability
- Management
- Distributions
- Formation and Governing Documents



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Corporate Practice of Medicine (CPOM)

This is not a prohibition contained in any particular statute, rather it is established by the amalgamation of a handful of statutes and embodied in common law.

- BCL Section 1507
- LLCL Section 1207
- Education Law Title 8
- NY Licensing Statutes (*United Calendar Manufacturing v. Huang*)

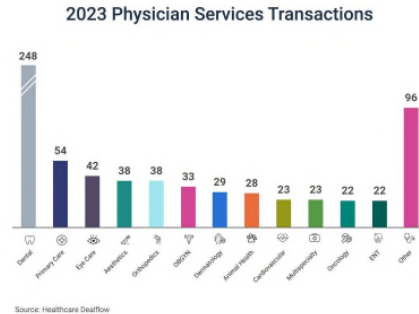


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Private Equity and CPOM

- The current market for delivery of physician services remains a contradiction because of the presence of investment from private, non-physician individuals and firms.

- Interest
- Prevalence
- Penetration



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Examples of Transaction Structures

- Sale to a “friendly physician” entity
 - Typically a sale of assets to another PC/PLLC with a single licensed owner
 - Management Services Agreement
 - Ability to replace practitioner as shareholder or member
- Management Services Organizations
 - Equity owners retain ownership
 - Management fees paid to take on all operational responsibilities outside of providing medical services
- Some issues can occur if not structured properly



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Private Equity Transactions

- What private equity firms look for
- Due diligence and preparation
- How to prepare and maximize value
 - Counsel
 - Brokers
 - Don't try to do too much yourself



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Regulation of Private Equity Investment in Healthcare

- New York Notification Statute
 - Some states (CA, IN) have implemented laws aimed at greater transparency with respect to PE-backed transactions in health care. Others have had those efforts stall (CT, MA, MN, OR, WA)
- Federal Proposals
 - Health Over Wealth Act
 - The Corporate Crimes Against Health Care Act
- FTC and DOJ Joint Request for Information



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Succession Planning

- Minority or Restricted Classes of Equity
 - Not available for PCs that have filed a Subchapter S election
 - Make certain voting and financial rights available without giving up control
- Profits Interests
 - Unfunded contractual right to payment upon the happening of certain future events
 - Allows associate or junior partners to have a stake in the growth and sale of the practice



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Succession Planning

- Mandatory transfer or sale upon certain events
 - Death or disability
 - Retirement
 - Voluntary withdrawal
 - Involuntary dissociation
- Sale to Company, other members, associates/new partners, or redistribution among several groups



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Thank You

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It is not to be considered as legal advice.
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