



# Stark Laws: A Porous Barrier to Desirable and Undesirable Business Arrangements for Physicians

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# Overview

- Trends in reimbursement, expectations, and organization of physician services
- Strategies by medical groups in the context of Stark II
  - A. In-office ancillary services
  - B. Free-standing facilities
  - C. Acceleration of investments
- Ownership arrangements
- Potential impact on markets
  - A. Access to care and disparities
  - B. Hospital-physician relationships (Stark now allows for IT discounts → better integration; competition for high margin services; tighter and looser affiliations with some specialists)

# Community Tracking Study

- National surveys of households and physicians
- Bi-annual Site Visits to 12 communities since 1996
  - ~1,000 interviews each round
  - Public and private sector providers, health plans, purchasers, consumer advocates, local policymakers
  - Boston, Cleveland, Greenville, Indianapolis, Lansing, Little Rock, Miami, N. New Jersey, Orange County, Phoenix, Seattle, Syracuse
  - Focus on data from 2002, 2004-05, 2006-07



# Pressures in Physician Markets Driving Increased Self-Referral Activity

- Per-unit reimbursements from Medicare and private payers not keeping up with rising practice costs
  - Most acutely for cognitive services (need cross-subsidization)
  - Physician incomes falling in real-dollar terms
- Physicians increasingly prioritizing life-style
  - Number of hours worked
  - Care settings, autonomy and control
- Independent small group practice becoming less tenable
  - Increasing employment of physicians by hospitals
  - Rise of large single-specialty groups

# The Diversifying Arsenal...

*“We have to look and ask – ‘What else is on the shelf that you don’t already have as part of your core business?’”*

– CEO of a medical group that has invested in a PET scanner, joint venture sleep lab, and newly employed physical therapists and anesthesiologist to run a pain clinic

# In-Office Ancillary Services

- Burst of activity beginning in 2000-2002
- Investment activity continues to spread
  - Large groups more able but small groups also active
  - Single/multi-specialty groups can provide broader scope and/or have more capital, but primary care groups have deeper pressures
- Types of services
  - Laboratory tests
  - Imaging: radiographs → ultrasound, CT, MRI, PET
  - Other diagnostic tests: EKGs → more complex cardiac testing, endoscopies, dermatologic procedures, sleep studies
  - Therapeutic services: pharmacy, infusions, minor surgeries

# Free-Standing Facilities

- For ancillary services
  - Imaging (PET scanners, bone densitometry) – Phoenix, Greenville, Little Rock
  - Endoscopy, sleep centers – Miami, Seattle, Syracuse
- For major procedures
  - Ambulatory surgical centers – Miami, New Jersey
  - Cardiac centers including for catheterization – Cleveland
  - Specialty hospitals – in Indianapolis, Phoenix, Little Rock

# Accelerating Investments

- More medical groups in more markets are pursuing more services
- Despite mixed financial performance of some free-standing facilities (ASCs in Cleveland), and backlash from hospitals (Orange County)
- Data on rising volume of services
  - Per-beneficiary spending on diagnostic testing services in Medicare
  - Private purchasers and health plans particularly concerned about imaging

# Arrangements: Medical Group Has Sole Ownership

- Indianapolis – specialty hospital
- Lansing, New Jersey, Syracuse – ASCs
- Greenville – urology surgical center, office with imaging/sleep/lab
- Phoenix and Little Rock – imaging centers, ASCs, specialty hospitals
- Seattle – imaging and diagnostic testing centers

# The Perceived Grievance....

*“...Stark provisions prevent us from better business organization ... and prevent efficiency and economies of scale. So now there are scanners on every corner. If the government would just let one large group do it, Medicare would pay less per scan.”*

- Medical group CEO

# Arrangements: Individual Physician has Part Ownership with Separate Medical Group

- Relatively rare
- New Jersey – cardiology group sought investors for a cardiac testing center
- Little Rock – specialty hospitals
- Phoenix – joint venture between large medical group and other physicians for sleep lab

# Arrangements: Medical Group has Joint-Ownership with Hospital

- Cleveland – ASCs, cardiac catheterization lab
- Greenville – ASCs
- Indianapolis – cardiac specialty hospitals
- Little Rock – ASCs, imaging centers, specialty hospitals
- Orange County – ASCs
- Syracuse – endoscopy centers

# Arrangements: Joint-Ownership between Hospital and (Un)affiliated Physicians

- Less common
- Greenville – some physicians on medical staff at one hospital system in joint-venture with a separate medical group and a different hospital
- Miami – Hospital sold limited partnerships in ASCs to individual physicians
- Syracuse – joint-venture spiral CT center

# Arrangements: Medical Group Leases From Hospital or Other Entity

- Rare, but growing arrangement
- Boston, Greenville, and Miami – advanced imaging equipment
- Cleveland and Little Rock – cardiologists leasing cardiac catheterization facility from hospital

# Impact on Access and Disparities

- Increased access to most profitable services in most markets
  - Greater choice of care settings
  - Improved convenience
- Potential decrease in access to less profitable services
  - Competition impairs ability by general hospitals to cross-subsidize lower margin services – e.g., physician-owned endoscopy centers in Miami or joint ventures in Syracuse
  - Proceduralists less tethered to hospital privileges → less willingness to provide ED and inpatient call coverage
- Strategic siting of new and physician-owned facilities favors well-insured patients

# Impact on Hospital-Physician Relationships

- Collaboration with physicians can retain some “pie” for hospitals
- Fraying relationships with competing medical groups
- Deep awareness of Stark feeds caution, but...
  - Tighter affiliations with collaborating specialists
  - Increasingly adventurous collaborations for adoption of health IT (Boston, Seattle, Cleveland, Indianapolis, New Jersey, Orange County)

# Potential Impact of Upcoming Changes to Stark

- Will trigger careful review of employment and ownership arrangements, but no changes yet
- Physicians who do not own their own equipment may find it harder to bill for testing, but....
- Unlikely to curb the majority of current activities