Physician Practice Mergers & Acquisitions:

A SIX-STEP CHECKLIST FOR SELLERS IN THE MIDST OF A PANDEMIC

As healthcare providers pursue transactions during and in the wake COVID-19, both buyers and targets should prepare for heighted scrutiny during the due diligence process. Getting organized ahead of a sale can dramatically expedite timelines and reduce deal fatigue for all parties, particularly in light of the heavier-than-normal due diligence process as a result of the pandemic.

STEP 1 TRACK KEY PERFORMANCE INDICATORS

Buyers and lenders will be keenly interested in month-to-month financial and Key Performance Indicators (KPI) performance. Sellers should come to the table with specific and articulate reporting to, through and out of COVID. Take time now, while operations are ramping back up, to aggregate as much detailed information as you can. Examples include:

- Monthly revenue, volume productivity, and other metrics relative to 2020 budget expectations and prior year performance.
- Were revenue shocks deferred or lost forever?
- How were telehealth and other services impacted from a rate perspective?
- Note changes in overhead and supply expenses, such as PPE, associated with COVID.
- How was cash flow managed (revolver draws, layoffs, PPP)? Are you subject to any restrictions as a result?
- Outline changes in collectability or timing of collections for accounts receivable.
- Pull backups of your master billing detail file weekly including every billed CPT, patient identifier, date of service, payor, charge and payment.
- Assess how working capital levels were impacted by PPP funds received, revolvers drawn, employee furloughs or layoffs, and resulting variance to "normal" requirements.
- Track every dollar spent on capital investment related to COVID and note as COVID-specific. Investment deferred or foregone due to COVID should also be tracked.
- Evaluate the path to normal from a financial perspective. Understand how monthly cash flow rebounds in the future until operations reach pre-COVID normalcy.

STEP 2 PREPARE TO MEET NEW EXPECTATIONS FOR R&W INSURANCE

The surge in popularity of representation and warranty insurance (RWI) means the due diligence priorities of RWI underwriters will set the pace for the rest of the market. Historically difficult areas such as HIPAA compliance and newer areas such as CARES Act compliance both require care to avoid coverage exclusions. Sellers can expedite the process by anticipating the areas of heightened scrutiny — and by staying sensitive to changes in the insurance market.

STEP 3 GET ORGANIZED ON COMPLIANCE DOCUMENTATION

Many of the federal, state, and local laws, orders, and guidelines implemented in response to COVID-19 could change in the midst of a sale process. Buyers are looking not only for evidence of compliance, but, just as important, for evidence of a *culture of compliance*. Sellers who demonstrate that they have invested the time to track and execute on COVID-related legal changes — from updating employee handbooks to careful documentation of expenses for PPP loans — will immediately differentiate themselves. On the other hand, if a seller is unable to provide documentation quickly, a buyer may lose confidence and fear hidden liabilities.

STEP 4 DOCUMENT PANDEMIC-RELATED OPERATIONAL CHANGES

Healthcare practices have changed their course of business due to the pandemic. Sellers should prepare, in advance of a sale, a summary of key changes made to adapt and their impact on the practice. For example:

- Changes in patient scheduling, how patients are being prioritized, impact on efficiency, revenue, volume and hours of operation.
- Changes in practice protocols and how providers/patients interact including waiting rooms, physical barriers and moving patients through the office and the resulting impact on efficiency, revenue and volume.
- Changes in employee compensation and work-from-home policies, and employee expectations for the future.
- Changes in work-from-home policies and impact on operations.
- Changes in covered services, particularly incremental telehealth coverage and potential long-term implications to service delivery and reimbursement.
- Changes in employee headcount, staffing ratios, or modifications to roles and responsibilities among employees.

STEP 5 EXPECT GREATER SCRUTINY OF MATERIAL CONTRACTS

Sellers should expect additional scrutiny over their most important long term contracts — especially where there may be concern over a counterparty's compliance. Where buyers in the past may have been willing to overlook missing contracts, or pages of a contract, sellers should prepare to obtain the complete contract terms for key vendors.

- Did the seller make any "handshake" deals or promises regarding deferred or future rent or compensation?
- Are there any long-term inventory, group purchase, lab or PPE-supply contracts with favorable or unfavorable terms?
- How are key referral sources managing the disruption? Have they rebounded? Impact on efficiency, revenue and volume?

STEP 6 CONTINUALLY ASSESS PAYOR DYNAMICS

Providers should closely monitor the downstream impact of key payors across the service mix. If governmental entities, particularly Medicaid, generate meaningful revenue, providers should assess the risk of future reimbursement cuts and how the commercial book may be impacted by significant layoffs among the patient population and shifting revenue to exchange plans or Medicaid.

ABOUT THE AUTHORS

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