



# Should Doctors Still Look at New Surgery Centers and Hospitals?

*By Michael J. Lipomi*

**W**ith all of the new regulations regarding physician ownership of surgery centers and the prohibition on physician ownership of hospitals, are there still opportunities for physicians to build new facilities? The answer is yes, more than ever! You first need to know what the rules are and how they will impact you and your new project. Surgery center ownership is still specifically exempt from Stark legislation. There are prohibitions on physician ownership on clinical labs, imaging and physical therapy. There are certain disclosure requirements for physician owners of surgery centers, but this is reasonable and not a lot of work to keep in compliance. The general understanding is that the new healthcare bill prohibits doctors from owning hospitals. In many ways this is correct, but you have to remember that this legislation only applies to facilities that perform government programs such as Medicare and Medicaid. While most surgeons and most facilities rely on these programs for viability, there is still the opportunity for physicians to own a hospital that does not participate in either program. In addition, there are several ways that doctors can participate in a hospital and profit from the hospital – and yet not be involved in operations.

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Doctors can own the real estate, lease the equipment and provide management services. If such a model is used, it is critically important that the fair market value is considered in all areas. This being said, it could still be profitable for the physicians – and in addition, the physicians can still have a large influence on the daily operations of the facility (which, of course, was the original intent of physician ownership).

Many doctors across the country are concerned about ACOs, hospital dominance and market control, and hospital-employed primary care physicians controlling referrals. It is true that in the primary care area, more than 50 percent of practicing physicians are now employed by the hospital. Once again, we have to be creative and assertive. Not only are surgery centers a better place for your outpatient cases, they remain profitable – and the quality numbers continue to impress the payors. After a long time of fighting managed care for outpatient rates, surgery centers are now experiencing a much more favorable acceptance and rate negotiation process with managed care providers. At last they have figured out that they don't need to be paying below cost to surgery centers, as this has driven outpatient cases into the higher-cost hospital provider. The managed care companies are now willing to discuss increased rates – payment for implants and hardware at reasonable rates that, while still lower than hospital rates, allow for reasonable profitability at the surgery center. In order to preserve the independent practice of medicine, surgeons must be able to generate reasonable income from their practice and affiliated services. This is the only way you will be able to recruit new blood into your practice and maintain existing business relationships.

The current practice of hospitals to recruit and employ physicians will continue to grow, but at some point, there will be a falling out ... and in some cases, doctors will revert to private practice. The model where physicians drive to see more patients, do more procedures, research and grow

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**The current practice of hospitals to recruit and employ physicians will continue to grow, but at some point, there will be a falling out.**

the practice is no longer incentivized in an employment arrangement. The physicians will have to adapt to having someone else employ and direct their staff, working with standard practices, and not necessarily what they feel is best for their patients. Some physicians will not be able to work long-term in this environment. In addition, the hospitals that employ physicians will see productivity of their employed physician drop and the margins narrow. Eventually, they will be forced to lower salaries and the relationship will continue to deteriorate. Physicians looking for a more long-term answer will seek opportunities to invest in themselves and in their profession with quality surgery centers and hospitals that will continue to beat the traditional hospital in productivity, quality and costs – which will ultimately win-out as compared to the older traditional hospital systems.

The founders of the physician-owned surgical facility model, Dr. Wallace Reed and Dr. John Ford, did so to improve quality and service for their patients, as well as offering an improved lifestyle for the surgeons. Profit was not on their minds; and in fact, they were not profitable for a long time – but they did achieve their primary goals in short order once they put the doctors in charge of the facility they practiced in. Nothing has changed today. Your primary goal should be quality and service with a great lifestyle for the surgeon. If you achieve these goals, profitability will certainly follow. Don't forget to take a look at the local hospital – not as an enemy, but rather, a resource and possible partner in your business. There is enough room for everyone to benefit long-term and plenty of opportunity today for new physician-owned surgery centers and hospitals.



*Mike Lipomi is the president and CEO of Surgical Management Professionals (SMP).*

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