



Gain Sharing and Other Contrivances: Reckless Dithering or Watershed Opportunity?

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Lately, it would seem that cardiologists, cardiovascular surgeons and a host of those involved in health care delivery have been larking about in legal waters. Mr. Ramsey's article succinctly outlines the legal issues confronting clinicians and hospitals as they look at ways to work together; this article also serves as an important backdrop for a host of strategies being contemplated by health care providers. My experience would suggest that more than a few practices have entered into relationships and projects that run the risk of being on the fringes of legality, potentially shipwrecking on the shoals of their own ignorance. Chutzpah — one can't help but admire it, especially in our current environment where large non-profit and for-profit healthcare systems and allegedly wealthy, greedy professionals are seen to possess deep pockets to sustain fines and serve as potential revenue streams for the OIG or whistle-blowers.

A little realism and trepidation sometimes goes a long way. Eyes tend to glaze over and thoughts turn

elsewhere when one speaks philosophically. But enter money and finances and we have instantaneous straightening and sobriety. In fact, it is finance that frames the context of the "relationships" outlined in Mr. Ramsey's legal scenarios. In an environment of constant economic constraint, the natural tendency is to look at ways of maintaining revenue. However, I would submit that the greater challenge is to grow one's business. How then do programs like gain sharing fit in? Is it possible to anchor these programs legally and successfully? I think the answer is both "yes" and "maybe", depending on long-range strategies and the attention paid to the necessary infrastructure to bring the strategies to fruition. Gain sharing (sharing in the cost savings derived from redesign of clinical and business processes) in and of itself is a short-term play. If not done correctly and without long-term infrastructure, the monies derived and distributed from a gain-sharing program run the risk of being viewed as an entitlement. In some settings it has the smell of kick-back, inurement and fee splitting.

The opportunity, in my opinion, is to go beyond gain sharing — not ignoring it or denouncing it, but placing it as one of several options that one needs to explore in formulating growth strategies for the practice, hospital and health system. The fact of the matter is that the strategies developed for clinical

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practices, hospitals and health systems may not be mutually compatible in all circumstances; while I believe it is meritorious to attempt to align the resources and skills of the respective organizations, it is still a fact of life that they are different businesses. It is important to maintain the flavor, focus and intensity of different business structures and strategies. My suggestions highlight the framework for working together and play on areas of pragmatic mutual benefit. That framework emphasizes:

- Leadership and vision;
- strength of the management team;
- the competitive advantage of the respective businesses;
- the creativity and innovation of the participants;
- the unique partnerships and avenues of growth developed by the participants; and finally
- the value each brings to the table for the long term.

What will eventually sustain all of these efforts is a passion for one's work and a craving for professional satisfaction — a satisfaction anchored in the belief that

our patients and those who seek our care are better off because of what we have designed. Well-founded and well-planned programs can lead to reasonable products and services that grow in a milieu where there has previously been isolation, mistrust and marginalization. These new programs and services can easily be the marvels of revolt, innovation and creativity. In so far as they are the products of cultures of energetic difference — symbols of determination to make it through tough times against increasing odds and patient centered in their focus — they merit an intense admiration, inspection and possibly implementation. To the extent that they step over existing law (as complex as that law may be) or to the extent that they focus on personal gain or are anchored purely by financial motive, one runs the risk of jeopardizing professional careers, collegiality and community trust. Indeed, you don't want it to be the last odd thing you did professionally.

"Our deeds determine us, as much as we determine our deeds"

— George Eliot