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[Health Strategies & Solutions, Inc.](#) , is a national health care strategy firm that provides state-of-the-art strategic and business planning services for health care organizations and their in-house and external legal counsel.

Gainsharing: There Must Be a Better Way!

Gainsharing between hospitals and physicians has garnered widespread attention, particularly since 2002 when the IRS suggested that these arrangements could potentially be permissible. According to a 2005 Bureau of National Affairs (BNA) newsletter, "Rarely does the federal government create a business opportunity involving health care providers paying their referral

sources for performing services and ordering specified items at the providers' facilities." The BNA newsletter reports that some in the field characterize the HHS Office of Inspector General (OIG) advisory opinions on gainsharing as a regulatory breakthrough, while others are more suspect of, or entirely opposed to, gainsharing arrangements.

Most hospitals and their medical staffs are willing to consider the possibility of sharing the expense savings for high-dollar procedures when high-quality patient care is demonstrated. And, in theory, gainsharing has laudable goals: aligning hospitals and physicians in a meaningful manner, improving efficiency of care, and reducing resource waste.

However, the rarity of approved gainsharing programs, roughly a handful since 2005, provides evidence of the significant challenges that these programs pose:

- Gaining a favorable OIG advisory opinion can be a slow and arduous process. The cost in money and time of obtaining a favorable opinion can outweigh the potential one-time benefits of achieving efficiency and other expense savings.



Read "Four Essential Strategies for Developing Formal Business Relationships with Physicians"

Read "Physician-Hospital Relationships: Lessons from a National Survey"

Read "Physician-Hospital Relationships: How Hospitals Can Move from Being Adversaries to Allies"

- After securing one-time expense savings, the "bar" to achieve additional expense savings needs to be raised for sustainability. Otherwise, gainsharing could be perceived to be a one-time hit.

Read "Is a Joint Venture Right for You?"

Read "Profitable Joint Ventures: A Real-Life Approach"

Read "Alternatives to Traditional Joint Ventures: Promoting Collaboration Instead of Competition"

Looking at Other Options

Given the potential pitfalls and the likelihood that any expense savings could be a one-hit wonder, health care organizations and their physician partners should investigate other alternatives for formal business relationships, particularly those that are more likely to be achieved in a timely and sustainable manner. When contemplating which option to pursue, the core objectives of each party considering a formal business relationship must be evaluated. Specific affiliation or partnership models and structures to achieve the objectives of each party can then be crafted. Example objectives include economic value; pursuit of high-quality, efficient patient care; collaborative and mutually beneficial hospital-physician relationships, and clinical autonomy.

A few examples of alternatives to gainsharing that may accomplish the objectives of health care organizations and physicians are co-management of a service line, medical directorship stipends, payment for participation in a clinical council, and equity joint ventures. The key here is to be open to the many opportunities that provide the potential benefits of gainsharing without the regulatory quagmires.

Gainsharing is a rare and potentially frustrating pursuit for most health care organizations. Before heading down this road, health care organizations and their physician colleagues should examine other alignment alternatives that may better meet hospital and physician objectives.

For more information on alternatives to gainsharing, please contact [Craig Holm](#) at 215-399-1855 or [Robert Hill](#) at 215-399-1856.



Craig Holm



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