

June 30, 2018

Direct Contracting By Physicians and Medical Groups

Ebay and Craigslist have disintermediated the classified section in the newspaper, which used to be the largest moneymaker in that business. The newspaper as middleman has been put to bed for the last time.

But in healthcare, middlemen abound. Hospital systems are middlemen for their controlled/employed physicians. Insurance companies, and even more so on steroids, IPAs and risk bearing medical groups are the middlemen between, largely, employers and their employees' medical care.

Why?

Some claim it's because of the hassle, the administrative burden, the HIPAA this and the "coordination of care" that. So, they say, middlemen are needed. But that's largely B.S.

Direct primary care contracting, that is, between patient and physician, is now a real thing. But so, too, is direct contacting in a much broader sense.

In fact, it's so real, in fact, that CMS recently sought, in their own words, "broad input on direct provider contracting (DPC) between payers and primary care or multi-specialty groups to inform potential testing of a DPC model within the Medicare fee-for-service (FFS) program (Medicare Parts A and B), Medicare Advantage program (Medicare Part C), and Medicaid."

"Direct contracting" has many meanings and is certainly not "one size fits all." It encompasses arrangements as concierge medicine and variants in which patients are charged a fixed amount per month and receive a standard, prix fixe menu of services and, usually, an à la carte menu of add-on services at published, fixed prices. But it's also broad enough to include sophisticated, carve-out type deals directly between, for example, orthopedic surgery groups and large employers.

The notion of "direct" is that there's no intermediary entity in the chain of payment. The "premium," if you will, is paid directly from its original source to the contracting medical group. Compare that with a traditional employer provided insurance policy: there's at least one intermediary in the arrangement chain, the insurer. More often than not, there are 2 or 3 or more intermediaries, each taking their cut.

Of course, there's no legal, as in mandatory, definition of "direct."

The bottom line is that "direct" is more of a mindset — it's the dematerialization of the payment intermediaries in connection with your design of a payment/delivery structure.

For example, sticking with the orthopedic group example, if it practiced in a location with a large, self-insured employer, the group might enter into a contract with the company for non-workers compensation orthopedic care (either physician side only or, if the group controls an ASC, facility side outpatient procedures). How the financial terms are structured (e.g., a negotiated price per item or episode of care, a reduced fee for service, what quality metrics apply, and so on) is open to negotiation.

The concept of direct contracting can be used both offensively, as described above, and defensively as a strategy to deflect the negotiating pressure of payors, especially downstream middlemen such as IPAs and risk bearing medical groups.

As in any healthcare structure, direct contracting comes with unique compliance, licensing, deal structure, and other concerns which must be addressed at the earliest stage of planning.

The place to start is to begin thinking about how direct contracting and its notions can be applied to you or your medical practice or business.

Understand that thinking is constricted by the *frame*, the "allowed" parameters of the process, the "normal."

But many times, in fact, nearly all times, the concepts of "allowed" and "normal," are just mental constructs with no real teeth. Seeing healthcare divided into separate silos of Employers/ Insurers/Middlemen (e.g. IPAs)/Providers is a *frame* that the large players, the CVSs of the healthcare world are breaking.

You can break it, too.



Wisdom. Applied. 115: Provision of Staff, Payment of Expenses Leads to Federal AKS Violation

The federal Anti-Kickback Statute (the "AKS") makes it a crime to pay remuneration to induce a referral of a federal health care program patient.

What's Your Healthcare Leader Mindset and How Does it Compare?

Over the years, we've developed a sense of the mindsets that are common among healthcare leaders and those aspiring to become one, from solo physician entrepreneurs to large group CEOs.

How do you score on those mindsets, both currently and where you'd like to go moving forward?

Score yourself on The Healthcare Leader Mindset Scorecard to get a clear sense. Be honest with yourself so that you'll be best able to establish goals and make improvements.

Then return your scorecard to us and we'll tell you how you compare against others who've completed the form.

How to Complete The Healthcare Leader Mindset Scorecard

Down the left-hand column, you'll see a list of 8 mindsets, starting with "Ambition."

Let's use the first mindset, "Ambition," as an example. Look across the columns to the right of "Ambition," and you'll see 4 boxes, each with a statement of the Ambition mindset, one of which is most true for you. Above each of those boxes are 3 numbers, each of which expresses the degree to which the statement is true for you.

So, for example, if you believe that the statement concerning Ambition in the box furthest to the right is most accurate for you, you'd score yourself from 10 to 12. From your perspective today, you'd put the number (from 10 to 12) that matches the degree to which the statement is true for you right now, say "10," in the box under the column heading "Today's Score."

Then, thinking ahead to where you'd like to see your score for Ambition in the future (think 1 to 3 years from now), enter that future score in the box under the column heading "Future Score."

[Download The Healthcare Leader Mindset Scorecard as a PDF.](#)

Once you've completed the entire Healthcare Leader Mindset Scorecard, save it, and email a copy back to us at admin@advisorylawgroup.com and we'll get back to you to let you know how your mindset compares with other healthcare leaders.



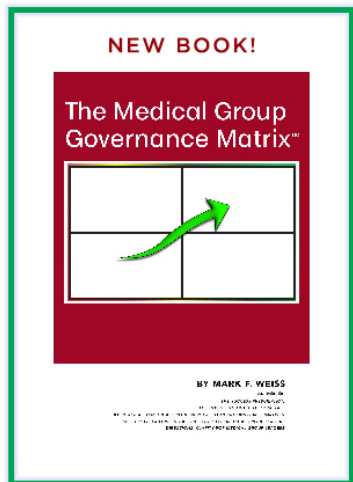
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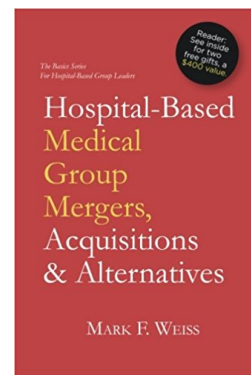
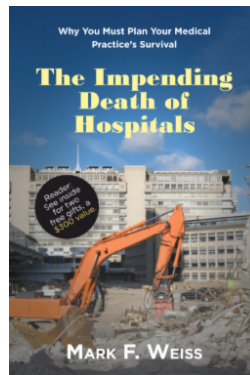
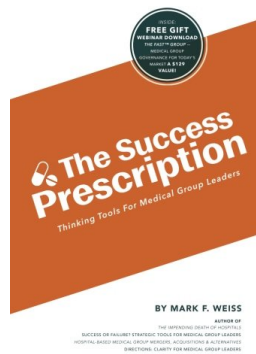
- [Explosive Growth in ASC Codes Fuels Opportunity](#), published on [RadiologyBusiness.com](#), April/May 2018.
- [Anesthesia Services RFPs: Reality, Unicorns And Cognitive Bias](#), Spring 2018, [Communique](#)
- [How \(Others'\) Stupid Compliance Mistakes Can Save Your Life](#), Winter 2018, [Communique](#).

Books and Publications



We all hear, and most of us say, that the pace of change in healthcare is quickening. That means that the pace of required decision-making is increasing, too. Unless, that is, you want to take the “default” route. That’s the one in which you let someone else make the decisions that impact you; you’re just along for the ride. Of course, playing a bit part in scripting your own future isn’t the smart route to stardom. But despite your own best intentions, perhaps it’s your medical group’s governance structure that’s holding you back. In fact, it’s very likely that the problem is systemic. The Medical Group Governance Matrix introduces a simple four-quadrant diagnostic tool to help you find out. It then shows you how to use that tool to build your better, more profitable future. [Get your free copy here.](#)

Learning opportunity: Mark will be presenting the key concepts of the Matrix as a part of his presentation at the Advanced Institute for Anesthesia Practice Management, April 28 – 30, 2018 at The Cosmopolitan of Las Vegas. <http://aiapmconference.com>



Whenever you're ready, here are 4 ways I can help you and your business:

1. **Download a copy of *The Success Prescription*.** My book, *The Success Prescription* provides you with a framework for thinking about your success.
2. **Be a guest on “Wisdom. Applied. Podcast.”** Although most of my podcasts involve me addressing an important point for your success, I’m always looking for guests who’d like to be interviewed about their personal and professional achievements and the lessons learned. Email me if you’re interested in participating.
3. **Book me to speak to your group or organization.** I’ve spoken at dozens of medical group, healthcare organization, university-sponsored, and private events on many topics such as *The Impending Death of Hospitals*, the strategic use of OIG Advisory Opinions, medical group governance, and succeeding at negotiations. For more information about a custom presentation for you, [drop us a line](#).
4. **If You’re Not Yet a Client, Engage Me to Represent You.** If you’re interested in increasing your profit and managing your risk of loss, [email me](#) to connect directly.