

Contracts, Negotiation, Deciding on a Position

Duration of Employment

Contract Term
Automatic Renewal
“Out Clause”

Compensation

Salary vs. Hourly
Benefits - who pays?
Employee vs. Independent Contractor - Tax Implications
Incentives - Night/Weekend Differential, Production Bonus

Contract Termination

For Cause = IMMEDIATE
Without Cause – generally must give notice (30-90 days)
Avoid subjective language in “for cause” clauses: “appropriate authorities of a hospital . . . request that Employee no longer provide such services at the hospital.”

The Integration Clause

“This Agreement constitutes the entire agreement of the parties with respect to the matters contained herein, and supersedes any and all other discussions, statements and understandings regarding such matters”

Significance of Integration Clauses

Buy-in as a group partner
Shift schedules
Coverage (NP or PA versus physician?)
Added administrative duties?
Minimizing the Effect of Integration Clauses
If you were promised something not in contract, write it in margin

Indemnification

Deal breaker!
“Physician shall hold hospital harmless from any and all liability, costs, damages, judgments, losses or reimbursement and/or reasonable attorneys’ fees incurred as a result of”

Example

“Violation of [government billing regulations]”
- may make physician liable for overbilling plus *treble damages*.

Duty To Supervise - Potential Liability

- Inadequate Supervision
- Illinois Physician Assistant Supervision Act

Notes

- “the supervising physician shall maintain the final responsibility for the care of the patient and the performance of the PA.”
- Improper delegation of authority
 - “Physicians don’t have “carte blanche to delegate any and all tasks to an assistant””
 - *Gillis v. Cardio TVP Surgical Associates*
 - Informed Consent
 - Does patient think your PA or NP is really a physician?

Malpractice Insurance

Another “deal breaker.”

Approximately 1 in 10,000 to 1 in 40,000 patients file a malpractice claim. 8-12x that many have compensable injuries.

Two Major Issues:

1. Coverage Limits

Specific policy limits should be included in every contract.

Average coverage is \$1 million/\$3 million

Should request certificate of insurance before signing contract.

2. Type of Coverage

“Claims-made” Vs. “Occurrence-based”

Occurrence-based insurance protects you indefinitely

Claims-made insurance must be in force when the incident occurred AND when the claim is made against you AND when the claim is reported

Negotiating Tactics

Hospitals

- The Deadline
 - Have to sign a contract before certain date. Almost never enforced. Used to force committal to contract
- The “Standard Contract”
 - Refuse to change contract because it is what all other doctors have signed. ALL contracts are negotiable

Physicians

- The Walkout
 - Walk out of negotiations if contract not acceptable. Have other positions available before using (should always be on staff at multiple hospitals anyway).
- The Red Herring
 - Pretend that something in a contract is very important to you when it really isn’t. Then concede that point to get something else in the contract you want

Deciding on a Position

Typical Considerations

Location

Payment

- Salary/hourly
- Benefits

Work Environment

- Patient volumes
- Ancillary services
- Group longevity at hospital
- Administration goals

Advancement

- Partnership
- Academic vs. Non-academic

Administrative Roles - Director/Assistant Director

What are YOUR “Needs” and “Wants”?

Evaluating a Position

Talk to employees

- Night shift docs
- Newest hires
- Person you are replacing or last to leave

Talk to nurse manager

Talk to spouses of group docs

Talk to hospital administration

***** Unreasonable rigidity during interviews or negotiations may signal difficulties in future working relationships *****

Finding a Job

In local area

- Cold-call hospitals/ERs
- ICEP EPIC
- Contact friends in locations you would like to work

Outside local area

- Ads in Annals, monthly emergency medicine magazines
- Contact ACEP or state branches
- National CMGs always looking for physicians

Search Firms

Often utilized with jobs that are difficult to fill

Hiring entity usually picks up cost (\$30K+) – may be less willing to use

Maintain your right to seek own contract without owing them a fee

May help with preparing CV, marketing physician, interviewing, etc