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The information in this presentation is general educational information. It does not constitute legal advice.
Contract Basics

- Employment Agreement should include all material/important terms
  - Parties
  - Position/Duties
  - Compensation
  - Duration - Termination
  - Restrictive Covenants/Non-competition/Non-solicitation
- Dispute Resolution
- Most EA state that the document is the complete agreement
- References to Exhibits/Attachments (Compensation, PTO, Non-Compete)
- Avoid Assumptions
Who is the Employer?

- Private Practice/Hospital/Medical College
- Could overlap on duties, compensation, etc.
- Successors/Assignment
Physician Compensation

- Specifics regarding: Amount or Rate or Formula
- Incentives: RVU or Collections or Discretionary; Verification; Post-termination receipts
- RVU Formulae: Baselines and per RVU amounts must be “reasonable”
Benefits

- Paid Time Off (Vacation, Sick, Personal, CME)
- Health, Dental, Vision insurance
- Retirement Plans
- License, CDS/DEA fees
- Hospital Medical Staff Dues
- CME
- Life/Disability Insurance
- Business Expenses (Car, Cell Phone)
- Board certification/Recertification Expenses
- Society Dues
- Disability/Leave
- Ownership

Any changes should be consistent with others similarly situated
Malpractice Coverage

Occurrence Coverage vs. Claims Made Coverage vs. No Coverage

Tails and Noses: Who pays?

RRG’s and Self-Insurance
Moonlighting

- What can/cannot do outside of providing services for employer
- Volunteering/Expert Witness/Research
- IP or revenue generated
- Approval required?
Restrictive covenants/non-compete/non-solicitation clauses

- State by State Analysis
- Non-compete
- Non-solicit
- Resignation of Privileges
- Confidentiality
- Non-Disparagement
- Violations
Employee Obligations

- Specifics regarding: Amount/Rate/Formula

- Incentives: RVU/Collections/Discretionary; Verification; post-termination receipts

- RVU Formulae: Baselines and per RVU amounts must be “reasonable”
Employer Obligations

- Should be outlined in EA
- Examples: equipment, supplies, staff, billing, malpractice
- Compensation/Benefits: insurance, PTO, expenses, CME
Contract Duration/Termination & Due Process

- Automatic/Cause/Not Cause
- Waiver of hearing/due process rights
- Linkage of employment and privileges
- State/NPDB Reporting
An emergency medicine physician from Washington state has filed a lawsuit to get his job back at a hospital. He was fired in late March after criticizing his hospital's response to the coronavirus pandemic.
Boilerplate Language

- Assignment
- Amendments
- Governing Law
- Severability
- Waiver
- Mediation/Arbitration/Litigation
- Force Majeure
- Counterparts
- Electronic Signatures
Negotiating Strategy

- Beginning a New Relationship
- Don’t Ask/Don’t Get
- Importance of Writing
- Trust
- Go In Eyes Wide Open
Physician Unions

- AMA supports right of physicians to engage in collective bargaining
- In 2019, there were 67,673 physician union members which represented 7.2% of actively practicing physicians in the US
- Increased interest as increasing numbers of physicians now work as employees and for prevention of burnout
Additional Resources

- PERLA Academy: A Guide to Physicians’ Employment Agreements
  - A guide organized to follow typical format of a contract with sections listing common provisions

- Guides from specialty organizations
  - AAFP: Employment Contracting
  - ACP: Physician Employment Contract Guide
  - ACEP: Employment Contract Resources

- NEJM Career Center
Questions?

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