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REGULATORY AND LEGAL ISSUES ASSOCIATED WITH INTEGRATED DELIVERY SYSTEMS

Attached are seven papers that attempt to consolidate the literature on Regulatory and legal issues associated with the development of Integrated Delivery Systems. Two of those papers are very lengthy and those two have executive summaries. The others are short enough so that they can be quickly reviewed. Each papaver also has a table of contents to help you focus on specific areas which may be of interest.

The seven papers are:

1. Regulation of Insurance
2. Miscellaneous Legal Issues
3. Legal/Regulatory/Reimbursement Issues
4. Integration Legal Concerns
5. Integrated Systems Legal Problems
6. Tax Exemption and Integrated Delivery Systems
7. Medicare Reimbursement and Fraud and Abuse Considerations

Realizing that this material is very lengthy, highlight of each papaver are:

1. **Regulation of Insurance**

- ERISA provisions apply to plans offered by Integrated Delivery Systems (IDS).
- Several states, including Florida, have taken the position that receipt of prepaid capital payments for health care constitutes the business of insurance and should be regulated.
- Typical state HMO act provisions are discussed along with typical insurance code provisions.
- California, Texas and Florida are cited as strongly regulated states.
- The papaver ends with a discussion of options and recommendations for dealing with regulation.

2. **Miscellaneous Legal Concerns**

- This paper introduces a broad high level overview of issues that affect the formation of an IDS.
- Licensing issues.
- Credentialling and peer review issues.
- Employee benefit plan issues.
- Self referral issues.

- Law on disclosure of ownership and control.

3. **Legal/Regulatory/Reimbursement Issues**

- Legal issues.
- Regulatory issues.
- Tax issues.
- Credentialling.
- Enterprise liability.
- Direct contracting.
- Agency issues.
- Medicare fraud and abuse.
- Internal Revenue Code 501(c)(3)
- Anti-trust laws.
- State prohibition on corporate practice of medicine.
- Organizational models for IDS.
- Strategies to minimize anti-trust risk.

4. **Integration Legal Concerns**

- The probability of anti-trust action increases with the amount of market power that an organization has.
- Market power exceeding 25% usually triggers anti-trust action.
- Credentialling and compensation policies have a bearing on potential antitrust action.
- Restrictions on physician referrals and Medicare reimbursement play a significant role in Florida.
- Careful consideration must be given to inurement when forming an IDS.

5. **Integrated Systems Legal Problems**

- This paper examines most of the preceding issues in a more detailed way. While it may appear to be redundant and very lengthy, it is furnished for those people who may want to examine the issues in more detail.

6. **Tax Exemption and Integrated Delivery Systems**

- Requirements for exemption.
- Two case studies.
- Process for obtaining tax-exempt status.

7. **Medicare Reimbursement and Fraud and Abuse**

Since Medicare constitutes a high percentage of dollars flowing to providers, this papaver broadly overviews some of the implications for organizations forming an IDS.

Again, we apologize for the volume of material. We have, however, attempted to provide high level summary information as well as the detailed information.