Is Your Practice Healthy?

5 Legal Checkups Every Practice Should Prioritize

Health care providers spend all day caring for their patients. But how much time do they spend taking care of their own practice? In my 20 years representing health care providers and their businesses, I have seen my fair share of corporate issues that could have been avoided with a bit of preventive "practice hygiene." Here's a list of five things to help keep your practice healthy.

1. **Corporate Structure and Governance**
   How often do you review your corporate documents and minutes? Many practices operate with outdated documents that do not reflect current ownership, compensation, or exit terms. Others fail to maintain records of corporate meetings and key business decisions. Reviewing your corporate records at least annually is important because stale or missing corporate documentation is a potential liability waiting to happen.

Doug Griswold
Shareholder

2. **Regulatory and Compliance**
   Health care is one of the most heavily regulated industries. Maintaining compliance with the Stark Law, Anti-Kickback Statute, HIPAA, and state licensing requirements is not a one-time exercise. Laws change, referral patterns evolve, and contracts become outdated. It is important to remain focused on trends and developments at both the federal, state, and local levels to remain ahead of the curve in an ever-evolving regulatory environment. State and local medical societies, along with your legal counsel, are often valuable resources for regulatory updates.

3. **Contracts**
   Key contracts (employment agreements, vendor contracts, payor agreements, and leases) should be reviewed regularly to ensure that such documents reflect current practice operations. Be sure to pay particular attention to noncompete clauses, term and termination provisions, fee schedules, and scopes of services. Expired or outdated contracts are a frequent source of dispute that can be mitigated through periodic review and updates.

4. **Financial and Tax**
   A practice's financial records should align with its legal structure. In a multi-owner practice, distributions, compensation, and expense allocations should be properly documented and defensible. Misalignment between tax treatment and corporate structure can trigger IRS scrutiny or owner disputes.

   In addition to regular contact with your financial and tax advisors, regularly perform self-audits to ensure that financial records remain accurate and are a helpful tool for forecasting future performance.

5. **Risk Management and Insurance**
   Malpractice coverage is essential, but it is only one piece of a comprehensive insurance strategy. A well-protected practice often carries cyber liability coverage (this is increasingly critical given the rise in health care data breaches), employment practices liability, and business interruption coverage. Policies should be reviewed annually to confirm they match the practice's current size, services, and risk profile. Being underinsured in any of these areas can turn a manageable incident into a practice-threatening event.

A proactive review today can help prevent unnecessary challenges tomorrow. To learn how Chambliss can help your practice navigate legal and regulatory issues, contact Doug Griswold or another member of the firm's health care team.