

Direct hiring in the healthcare industry is a risky trend



James J. Boutrous II | Tuesday, October 20, 2015

As recently reported by *Kaiser Health News*, the trend of healthcare institutions directly hiring its physicians carries with it a new risk. Specifically, one of the largest health systems in the country reportedly agreed to pay just under \$70 million to settle a whistleblower action filed by the United States Department of Justice and the whistleblower, an orthopedic surgeon, who alerted the Department to the matter.

The complaint alleged violation of the False Claims Act, amongst other claims, where the system allegedly over-paid nine employed physicians as compared with the prevailing market rate in exchange for their referrals to the health system. Thus, the Department claimed physicians were wrongfully incentivized to make referrals that might not otherwise be necessary, thus compromising the physicians' independent medical judgment as to what was and is truly in their patients' best interests.

The health system denied any wrongdoing as part of the settlement and no criminal allegations have been filed to date. But the lesson learned through this lawsuit is that as health systems move more towards directly hiring physicians, the systems need to ensure that their physicians retain the autonomy to do what is in the best interest of their patients, without financial incentive by their employer, i.e., paying salaries out of proportion to the market, as was alleged here, that influences their independent medical judgment.



James J. Boutrous II

Direct hiring in the healthcare industry is a risk



Team member bio