

POINT *of* VIEW



TRENDS

Looking Ahead to Stay Ahead

Conversion: The Next Evolution in the ASC Life Cycle

Sustaining market and revenue growth is a challenge facing many Ambulatory Surgery Centers (ASCs) and Hospital Outpatient Departments (HOPDs) today. Like all businesses, ASCs and HOPDs have a distinct life cycle. After five or so years in business, most experience a maturing or reduction in revenue growth. Even when your facility successfully captures a significant portion of the outpatient surgeries and procedures in your market, your outpatient book of business limits opportunity.

How Do You Generate Momentum?

The expansion of a facility's scope of services has proven to provide continuous growth opportunity. Subsequently, conversion has become a core strategy in growth sustainability across the country. Many healthcare facilities are converting their ASC business to a surgical or specialty hospital. While surgery may remain the core service, an expansion allows you to attract more patients by providing additional services.

Why a Surgical Hospital?

Patients are the heart of healthcare, and today's consumers place a high priority on accessibility, quality and personalization. In addition, cost efficiency has become a key driver in healthy facilities. The growth of surgical hospitals is a direct consequence of

these market dynamics. As a hybrid business model, your surgical hospital can fill the void between ASCs and acute care hospitals. You can offer the same kind of efficiencies and advantages found at an ASC yet, unlike an ASC, your physicians can perform a broader range of both outpatient and inpatient cases in one location. This results in greater efficiencies, as well as the opportunity to provide a wider array of procedures to more patients.

A Range of Innovative Models

Surgical hospitals range from single to multi-specialty with various partnership models. Your surgical hospital should include a combination of medical specialties that best serves your community to ensure growth well into the future. Your facility should also offer a complement of inpatient and outpatient surgery, imaging and other ancillary services that puts you in the best competitive position.

Key Success Factors


Becoming a surgical hospital is a major decision. A successful project must include a well-developed and executed business plan that takes into account key factors such as organizational structure, legal considerations and financial obligations. Most industry experts agree that selecting a corporate partner with proven experience in developing and managing surgical hospitals will maximize opportunity and minimize risk. Your partner should clearly understand the upfront legal aspects and state licensing requirements, but also the ongoing operational components such as managed care contracting, space planning, 24-hour staffing and clinical pathways.

Based on industry data and real-world case histories, a successful surgical hospital conversion begins with thorough market



analyses that determines your community needs and scope of services. In addition, a financial feasibility study should be conducted to establish your projected patient volume, procedural case mix, revenue per case, medical specialties, SWB (salaries, wages & benefits), building and equipment costs and other variable costs. The more due diligence you perform in the front end, the greater the chance for success on the back end.

Carpe Opportunity

The future remains full of opportunity for enterprising professionals in the ASC market. The key is to continually evolve your business plan to sustain momentum. Conversion or expansion to a surgical hospital is a proven method of growth sustainability. In fact, surgical hospitals are the fastest-growing business model in outpatient delivery today because they allow you to satisfy the needs of patients, physicians and health systems and establish a solid foundation for long-term financial success. 

Written by Denise Mayhew, Vice President, Physician Partnerships, Nueterra Healthcare

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FROM THE CEO

Physician Ownership in an Obama Presidency

Since being elected president in November, Barack Obama has made it very clear that he intends to move quickly to address his top priorities, including healthcare reform. During the campaign Obama said reducing healthcare costs and expanding coverage would be among his top priorities if he were elected. But with the ongoing economic and financial crisis, some experts are questioning whether Obama will be able to achieve his healthcare goals quickly. Given the cost and complexity of the significant reforms Obama has proposed, changes may be phased in over time.

Regardless of the speed with which he moves, Obama's plan will likely impact ASCs and physician-owned hospitals in several ways. Here's how:

- Any reform proposal will likely try to mandate greater transparency of physician investments, quality matrixes, and provider charges.
- Quality measurements will become more important. Obama's plan would require providers to collect and publicly report measures of healthcare costs and quality, such as preventable errors, disparities, staffing data and infection rates. It would also require insurers to disclose the percentage of premiums used for patient care versus administrative costs.
- More people will be insured. Obama has said he wants to reduce the number of uninsured Americans, which currently stands at about 46 million. He would do this by requiring all employers to either provide healthcare insurance to their employees or to contribute toward the cost of coverage for employees. Obama also wants to mandate health insurance for all children. His plan would create a National Health Insurance Exchange to give individuals and small businesses the opportunity to purchase affordable private or public plans.
- Electronic health records will receive increased funding as we move toward a phased-in implementation of a new electronic health information system. A major IT demonstration for physicians



will start this year (2009) that will provide payments to participating practices based on electronic health record functions used to manage the care of patients. Ultimately, the investment could be as much as \$10 billion a year for the next five years.

- Medicare physician payments (SGR) will also be a likely target of reform legislation.

However, other than the investment in electronic health information, experts do not anticipate that we will see any significant increase in funding for new healthcare initiatives or increased reimbursements. On the contrary, reimbursement rates will likely continue to shrink to provide additional funds for expanded access to care. Expect to be rewarded if you perform well and penalized if you do not.

Reform legislation efforts will be led in the Senate by Sen. Ron Wyden (D-OR) and Sen. Edward Kennedy (D-MA). Wyden is widely seen as the starting point for any fundamental, national reform legislation and, most significantly, the Congressional Budget Office has already indicated his plan will save money. And Kennedy has had discussions with

a variety of stakeholders to build a framework under a "one-bill" approach, which would combine various healthcare reform initiatives into a single bill. Sen. Baucus has also put forward recommendation that incorporate ideas from the Obama campaign.

While reform appears to be inevitable, ASCs have an opportunity to increase their political effectiveness to improve recognition and support from Democratic senators who now are supportive of community hospitals. Moreover, given their large numbers and the 35 percent discount on services that they provide the governments ASCs have an opportunity to build their public relations efforts to underscore these facts and the quality and patient satisfaction for their services. Existing physician-owned hospitals will likely have a very difficult time not directly because of Obama as president but because of the loss of a counterbalance to Democratic control in Congress. Nueterra will continue to take a leadership role in working with key legislators to ensure they understand the importance of physician-owned healthcare facilities in the overall healthcare system. **N**

Written by John Schario, CEO,
Nueterra Healthcare

FINANCE



So I Own My Own Office Building or Surgical Facility ... Now What?

An Insight Into Sale and Leaseback Options

Passionate debate continues in medical staff lounges across the country over the merits of leasing vs. owning. This important decision is impacted by economic conditions, demographic changes within a community, individual risk tolerance, financial history and future practice expectations. Sales and leaseback options provide a way to protect your investment within these parameters.

Inherent Obsolescence

Many physician owners simply pay down their mortgage, assuming the sale of their office can be married to the sale of their practice upon retirement. The problem with this approach is “obsolescence”—both economic and functional. Similar to inflation, obsolescence reduces value of an asset, and therefore, financial wealth. The physician owner has no assurance the property will be located in a vibrant part of the market *in the future*. Often, locations become less desirable over time. In addition, as technology and work processes evolve, even a well-designed facility will become less efficient over time. Both of these factors negatively affect real estate properties.

Protecting Your Investment


A sale and leaseback transaction is one way to protect the physician’s investment.

Let’s say a physician is planning on practicing medicine for another 10 years. The best time to sell is *now*—when the facility is near its prime functionally and geographically (i.e., in a growing area or next to a major hospital). As discussed, the future holds many uncertainties: the hospital might move, the building will likely require updates, the infrastructure may not support technological advances, etc. While you may be able to sell the “practice” in the future, the sale of the estate is a separate issue. Physicians are often left with obligations to manage their former office building with less than rosy expectations for its sale in the near future.

Just What The Physician Owner Ordered

A sale and leaseback strategy allows the physician to remove accrued equity by selling to a third party investor. The physician then enters into a long-term lease commitment (i.e. 10 years) with the third party at or near his current lease amount. Market value in commercial real estate is figured on the net operating income generated by the lease(s) in place today and tomorrow within the building. There is no economic impact on the practice because the occupancy costs (lease, taxes, utilities, etc.) remain the same as when the physician owned the property.

Physicians who have acquired their medical property as a new construction project will likely realize a rapid increase in value because the difference in development/construction costs and market value will be significant. In many cases, an increase in value within the first five years of ownership exceeds 30% (excluding the effect other economic forces might have on value). Physicians who have acquired an *existing* building may not realize as big of a gain. Either way, the cash that has been pulled out of the building is now available for financial redeployment into additional real estate investments, stocks, bonds, etc. A sale and leaseback strategy also removes the asset from the physician’s balance sheet, which provides an additional source of capital from third party lenders that can be put to work for wealth-building activities as well.

For more information regarding sale and leaseback strategies, as well as other wealth producing real estate strategies contact Mike Krach at Nueterra Real Estate Companies, a real estate development company committed to creating economic and personal wealth for our partners (mkrach@nueterra.com or 913-647-6446). 

Written by Mike Krach, COO, Nueterra Real Estate (NRE); and Kevin Stuckey, CEO, NRE

Sale and leaseback strategies allow physicians to:

- Avoid property obsolescence
- Separate the sale of the property from the sale of the practice
- Protect the investment
- Remove and redeploy accrued equity

■ PLANNING & STRATEGY



OIG Issues Favorable Ambulatory Surgery Center Advisory Opinion

On July 25, 2008, the Office of Inspector General (OIG) of the Department of Health and Human Services posted a favorable Advisory Opinion (08-08) regarding the development and operation of an ambulatory surgical center (ASC) owned jointly by a Hospital and a group of Surgeons. The OIG concluded that it would not impose sanctions under the Federal Anti-Kickback Statute notwithstanding the fact that the Arrangement does not meet any specific safe harbor and poses some risk of prohibited remuneration. In issuing the Opinion, the OIG shows flexibility in permitting joint ownership of an ASC outside of the strict confines of the ASC safe harbors and demonstrates a willingness to endorse non-safe harbor compliant arrangements as long as appropriate measures are taken to reduce the potential for improper inducements to refer procedures to the ASC.

Background

The ASC in the Opinion was to be owned by a hospital and 18 “orthopedic” surgeons. The Surgeons were to own, in equal shares, 70% of the ASC through an LLC; the Hospital was to own the remaining 30%. Fourteen of the 18 Surgeons met the “1/3 income test” while the remaining four Inpatient Surgeons did not. Each Inpatient Surgeon, however, did derive at least 1/3 of his or her medical practice income from procedures in an OR setting. The Hospital is a not-for-profit corporation that owns three hospitals and other health care related entities including a large physician group practice employing primary care physicians and specialists. Several restrictions on referrals were put into place regarding pain

management referrals, cross referrals, referral compensation and tracking, as well as stipends paid for anesthesiology (to a Hospital-owned anesthesiology practice that was to provide anesthesia services to the ASC).

OIG Analysis

Although the OIG determined that the ownership arrangement did not qualify for safe harbor protection, it concluded that it incorporated safeguards that would minimize the likelihood of fraud and abuse.

1. Although the ASC was to be owned, indirectly, by the Surgeons through an LLC (contrary to safe harbor requirements), the OIG concluded that the ownership structure did not substantially increase the risk of fraud or abuse because the LLC ownership interests were to be owned proportionately to the investment of the Surgeons and the LLC was to distribute returns on investment to each Surgeon member directly proportional to his or her investment, thereby providing the Surgeons with a return that is “exactly” the same as if they had invested directly in the ASC.
2. The OIG determined that although the Inpatient Surgeons did not (and would not) meet the so-called “1/3 income test” (necessary for safe harbor protection), they were engaged in a genuine surgical practice” deriving at least 1/3 of their income from procedures requiring a hospital operating room setting, and were qualified to perform surgeries at the ASC. In addition, the OIG considered the fact

that the Inpatient Surgeons certified that they rarely have occasion to refer patients for ASC procedures. Finally, the OIG looked favorably upon certain restrictions related to pain management referrals by the inpatient surgeons.

3. The OIG also noted that although the investment by the Hospital voided safe harbor protection (because, by employing physicians, the Hospital is a referral source) it concluded that the various safeguards related to Hospital referrals (e.g., refraining from taking any actions to require or encourage physicians affiliated with the Hospital to refer cases and refraining from tracking such referrals) “significantly constrained” the ability of the Hospital to direct or influence referrals to the ASC or the Surgeons.
4. The OIG concluded that although the anesthesiology arrangement (between the ASC and the Hospital-owned anesthesia practice) did not comply with the safe harbor, the OIG took comfort from the fact that (i) all of the services to be provided were set out in the agreement, (ii) the services are reasonable and necessary for the ASC, and (iii) the amounts to be paid are fair market value, determined at arm’s length and do not take into account the volume or value of referrals or other business generated between the parties.

Conclusion

In issuing this Opinion, the OIG has demonstrated flexibility in permitting joint ownership of ASCs by physician and hospital investors outside of the strict confines of the various ASC safe harbors. As a result, many existing ASCs seeking new physician investors may now have somewhat greater flexibility in attracting those physician groups composed of both ASC utilizers and surgeons (or proceduralists) with hospital-based practices. The Opinion could also affect the drafting of the operating agreements or other governing documents of certain multi-specialty ASCs that have incorporated the “1/3 procedures test” as a basis for the redemption of a physician’s ownership interests. Finally, the rationale employed by the OIG with respect to the “1/3 income test” as applied to the Inpatient Surgeons conceivably could be applied with respect to the one-third “procedures” test as it relates to “hospital-based” physician investors. ■

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■ CASE STUDY

A Case for Momentum: Viewmont Surgical Center

Joint ventures are the fastest growing partnership models in outpatient surgery delivery today because they allow physicians to gain control of their patient outcomes and personal income, while the hospital increases market share, solidifies physician relationships and enhances clinical outcomes. The end benefits are obvious, but the path to realization is often not as clear.

The Challenge of Inertia

One of the most common pitfalls in joint venture development is momentum, and the lack thereof. Plans and negotiations start out with enthusiasm, but the process drags out and inertia sets in. Physicians become disenchanted and feel the hospital is only paying lip service to the project. Their skepticism is sometimes fueled by industry myths (i.e., the hospital partner must own at least 50% in the partnership and maintain voting control of the board of managers, etc.) These issues are often the result of “Do It Yourself” efforts to develop the joint venture partnership.

Frye Regional Medical Center in Viewmont was experiencing some of these classic barriers. The hospital had been exploring physician partnership opportunities for years, but the efforts had stalled. Frye needed a catalyst to provide impetus and focus. As a leader in physician ownership models, Nueterra Healthcare brought exactly the kind of the development and management experience Frye needed to bring the joint venture to fruition.

Common Problems Uncommon Solutions

As with many facilities, the existing ASC facility was experiencing low case volume and a significant variance in case types. The facility needed a solution that would solve issues of physician retention, recruitment and partnership. Nueterra recommended a resyndication of the existing ASC with physician ownership as a key component. Nueterra brought together the revenue, physicians and process to quickly expedite the project. Nueterra’s experience helped Viewmont avoid common pitfalls such as failure to give physician partners control or equal participation over strategic planning and operational decisions and overbuilding



the physical plant. Without the speed bumps of inexperience, Nueterra allowed Frye to experience unprecedented speed to market.

The Momentum Continuum

The partnership development was just the start. Working with the Viewmont team, Nueterra’s ASC management experts helped bring positive impact almost immediately. The center was able to increase both the volume and complexity of cases. Nueterra renegotiated managed care contracts, and realigned staff to maximize efficiency. Nueterra communicated frequently and openly to build esprit de corps and confidence in the value of the company’s vast industry insight. This, in turn, inspired physicians and staff to be more innovative and involved.

Ongoing Success

The cooperative partnership of hospital joint ventures are growing for very good reasons: they work for everyone involved. Physicians can focus on clinical outcomes and patient care rather than negotiating contracts, navigating state regulatory issues, researching equipment financing options or building a healthy referral base. Hospitals can experience increased market share, reduced outmigration of patients and procedures, preempt potential ambulatory care competition, prevent defection of specialists, avoid increased competition for outpatient services, and increase physician retention rates.

Viewmont illustrates many of these benefits in the real world. With improved

efficiency and staff engagement, patient satisfaction at the facility has consistently improved. The number of full-time cases per employee has increased 33% on average. Viewmont added Pain Management as a specialty, which has grown steadily from inception. Overall growth has helped other specialty groups decrease outmigration. Increased staff confidence and improved technology also made it possible to recruit additional ENT’s.

The Viewmont resyndication project is an example of the benefits of proactive collaboration between physicians and hospitals. ■



CASE STUDY

Viewmont Surgical Center Hickory, North Carolina

FACILITY FACTS

- 8,500 sq. ft.
- 3 OR
- Joint Venture with Frye Regional Medical Center

SURGICAL SPECIALTIES

- Oral
- Pain Management
- Orthopaedic Plastic and Reconstructive
- General
- Urological
- GYN
- Podiatry
- Ear, Nose & Throat



Read inside and find out how you can stay ahead and take advantage of the newest developments in healthcare.

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Viewmont Surgical Center

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Since 1997, Nueterra has been pioneering and developing innovative business models that allow our partners to proactively respond to opportunity.

We're the nation's largest ground-up developer providing development and management solutions for more than 1,200 physicians and 90 surgical and outpatient facilities across the country. We pioneered the idea of physician majority ownership and continue to be the visionaries in developing business models that advance the healthcare community. We have the infrastructure and forward thinking that brings best practices and best care together.

From creating healthcare business ventures to providing capital management assistance and real estate development solutions, we work with a 360-degree perspective that considers every aspect of your unique situation both personally and professionally.

For more information on any of our articles or about Nueterra Healthcare, contact Denise Mayhew at 913-387-0670 or dmayhew@nueterra.com or visit us at www.nueterrahealthcare.com.

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