

Compliance Today – November 2021

Health systems and joint ventures: Reducing risk through compliance alignment

By Robert R. Michalski, CHC, CHPC, CHRC, CCE, CHIAP, and Robert G. Breighner, Jr.

Robert R. Michalski (rrmichals1416@gmail.com) is a Compliance Professional in Gainesville, FL. Robert G. Breighner, Jr. (rbreighner@selectmedical.com) is the Chief Compliance Officer and Privacy Officer at Select Medical Corp. in Mechanicsburg, PA.

- [linkedin.com/in/robertrmichalski/?trk=public_profile_featured_profiles_mini-profile_title](https://www.linkedin.com/in/robertrmichalski/?trk=public_profile_featured_profiles_mini-profile_title)
- [linkedin.com/in/bob-breighner-6b93ba8/](https://www.linkedin.com/in/bob-breighner-6b93ba8/)

As healthcare continues to evolve at breakneck speed, health systems must continually transform to keep pace. This transformation can take many forms, including strategic affiliations and partnerships that complement or expand a health system's current suite of service offerings.

A joint venture (JV) where two organizations agree to pool resources in pursuit of a business activity is a common affiliation strategy. JVs have been used in recent years as a means to pursue innovation and consolidate scale in core competencies.^[1] They expand market share, improve network integration, and increase capacity and access to services. Each JV partner brings their unique strengths to the entity to improve the service offerings to the communities served.

Value-based care models also require more collaboration across the continuum of care. JVs leverage the experience and services of specialized providers to more efficiently use capital infrastructure in the delivery of services.

Common JV arrangement for health systems

There are various kinds of JVs, but often in the JV arrangement, one of the parties is the controlling party with a greater than 50% share of the entity.

Also, a majority or minority stake usually determines the financial investment and resulting profits the parties will retain, as well as securing representative governance seats on the controlling board of the JV entity.

Health systems, due to their size and scope, often serve as the majority partner in the JVs and may look for a prospective partner that specializes in some type of care delivery, such as skilled nursing, inpatient rehabilitation, long-term acute care, emergent or urgent care, outpatient radiology, outpatient physical therapy, or ambulatory surgical services, in order to leverage the experience and services of these specialized providers rather than investing resources to develop or maintain them on their own.

The compliance professionals for the JV majority and minority partners will need to develop a partnership in order to foster a strong culture of compliance throughout the organization.

How JVs can lead to sleepless nights

JVs are often presented as a seamless part of a health system—especially to patients and prospective patients. From a marketing perspective, this is a solid strategy. But this does give rise to liability concerns. Some compliance professionals worry, and rightfully so, about the ripple effect a serious JV compliance concern could have across the entire health system if not addressed promptly. This is especially true if the health system does not directly oversee the JV's compliance program where, oftentimes, the management for the JV is given to the minority partner due to their technical expertise.

For example, if a health system partners with a specialty provider for inpatient rehabilitation in a JV, it would want the inpatient rehabilitation provider to manage the day-to-day operations of the JV entity since they have the technical expertise in that care setting, even though the health system may be the majority partner and brands the facility under the health system. To the public, the JV entity appears to be just another facility of the health system, although it is really managed by the JV minority partner, who usually runs the compliance program for the JV entity as well. Therein lies the reputational risk for the health system. It has essentially outsourced the management and the compliance function for a JV entity branded as part of the health system. So how does the health system compliance office get comfortable with this arrangement?

This document is only available to members. Please [log in](#) or [become a member](#).

[Become a Member Login](#)