

Hiring Independent Contractors, Outsourcing Work, and Hiring Consultants

Here's what you need to know about these unique business relationships.

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Hiring Independent Contractors

Employers may be tempted to classify those who perform work for them as independent contractors in hopes of avoiding the expenses of taxes or benefits. Agencies such as the IRS issue criteria that must be met in order to classify an employee as an independent contractor. Regardless of their job classification, you must treat workers who meet the criteria of employee as such. For example, you must withhold income taxes and pay Social Security, Medicare taxes, and unemployment tax on wages paid to the employee. You are also responsible for matching the employee's contribution to Social Security and Medicare.

Because hiring an employee can be more expensive than retaining

a contractor, it may be tempting to designate as many people as possible as contractors. However, doing so inappropriately can place the practice in a bad position with the IRS. What's more, mis-categorized personnel can bring legal actions to recover the money they lost due to being mis-categorized.

The IRS considers three sets of criteria in classifying a worker. One criterion is how much control the employer has over the worker's behavior. In general, when the person performing a job controls what they do and how they do it, they may qualify as a contractor. For example, if you retain a web designer who has free rein to achieve your stated goals using the way they think is best, they may be regarded as a contractor. On the other hand, if you are evaluating the web designer's performance throughout the development phase, they may be more likely to be considered an employee because you are exercising behavioral control.

Another criterion involves financial considerations and whether the worker is free to work for others. A

certified registered nurse anesthetist (CRNA) who works at several surgery centers on an as-needed basis might be regarded as a contractor. However, if one of the surgery centers reimburses the CRNA for liability insurance or continuing education expenses, doing so would be more in line with the definition of employee.

Finally, the relationship between a worker and an employer must be considered. In healthcare settings, this relationship is often detailed in a contract and is defined by factors such as whether benefits or paid time off are provided. Simply labeling a contract as an "employment agreement" or "contractor's agreement" does not automatically place the worker in one of those two categories.

Employers who retain contractors must obtain a completed IRS Form W9 from each prior to the commencement of work. At the end of each tax year, the employer reports how much was paid to the contractor using IRS Form 1099

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and sends copies of this form to the contractor and to the IRS, accompanied by IRS Form 1096. Because the business does not withhold money from wages paid to contractors, the contractors themselves are responsible for paying the requisite taxes and withholdings. When working with contractors, it is critical to take several additional steps beyond

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those you might take when considering a new employee. First, always complete a thorough background check.

Outsourcing

At a minimum, check references and confirm appropriate licensing. For many contracted positions,

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such as billing services, it is a good idea to consider bonding the contractor. For example, even if you are confident that the billing service you use is staffed by honest people, honest people sometimes change when their life circumstances change. Bonding the contracted employee or the billing service may mitigate difficulties if the contractor misbehaves. When a worker has been bonded, an insurance policy has been taken out on that person for the amount of the bond, which is usually a large sum of money, insulating your business from harm at

the hands of contractors or others.

Any contractor who routinely or incidentally may encounter protected health information must read, sign, and agree to comply with the practice's HIPAA compliance policies. It is not sufficient to rely on verbal agreements. Contractors must sign a HIPAA-compliant business associate agreement (BAA).

Because the language changes from time to time, forms such as this should be reviewed at least annually to ensure they are fully compliant.

Outsourcing Work

Operating a healthcare practice requires more skills and knowledge than any one person, including the owner, can reasonably bring to the table. When a set of skills or a body of knowledge is needed on a routine basis, the practice should hire an employee to provide the skills or knowledge. Sometimes, skills or knowledge are needed only on a part-time or occasional basis, or there are office space limitations, or other factors make it unreasonable to hire an employee. In these circumstances, healthcare entrepreneurs outsource the work. Outsourcing entails contracting with an independent person or company to do work the practice needs to have done.

Examples of outsourcing include retaining a cleaning service to clean the office or retaining a CPA or attorney to file taxes or write contracts. In healthcare, billing and collections functions are often outsourced. One common justification for outsourcing is the lack of

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time to supervise a new employee. This usually is not a good reason to outsource. The person or company hired to do the outsourced work will need supervision, just as an in-house employee would. Even if saving time is the motivation for outsourcing, it is important to schedule time to supervise the firm or person retained to do the job. Determining whether to outsource and whom to retain requires some thought and calculations.

Three Factors Should Be Considered:

- 1) Consider the cost of the outsourcing options. You can do this by requesting bids from vetted vendors.
- 2) Consider what would be gained from outsourcing. A company or person who cannot or will not provide you with data on past performance should not be considered.
- 3) Weigh these calculations against the cost-benefit ratio of performing the needed function in-house.

Hiring Consultants

Consultants are people who have knowledge of and experience in some area. Consultants bring fresh eyes, new perspectives, and a library of lessons learned by watching the successes and failures of their other clients. This makes competent consultants invaluable resources who can help identify and launch new opportunities, recognize the strengths and weaknesses of your practice, and manage certain projects that would otherwise distract from your main business. For these reasons and more, consultants often help healthcare entrepreneurs earn or save considerably more than the cost of the consultant's fees.

When selecting a consultant, it is important to ensure their knowledge and experience are relevant to the goals you have for them. For example, a consultant who has a proven

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track record of building a successful solo practice may have some, but not all, of the knowledge and experience needed to help you develop a suc-

cessful group practice. Before interviewing a prospective consultant, list the skills and experiences you think they will need to get your job done. Then question them about their skills and experiences to determine if there is a match.

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Tip: Professional consultants read management journals, attend healthcare management conventions, and track important events such as the passage of new laws on an ongoing basis. Before retaining a

consultant, ask them what they do to keep abreast of the profession. Too often, businesses wait until they are faced with a clear problem before turning to a consultant for assistance. Savvy healthcare en-

trepreneurs routinely call in consultants to keep their business dynamic, growing, on track, and out of trouble. Consider the difference between the practice owner who brings in a consultant to iron out problems in the billing office versus the healthcare entrepreneur who hires a consultant to review or develop the operating procedures for the billing department.

Consider, too, the owner who, in hopes of sparing the expense,

waits a few years to hire a consultant and finds that revenues have been lost that could have been captured all along. The fees consultants charge are an investment in your business. To get your money's worth, be prepared to implement most, if not all, of the consultant's recommendations. If you have concerns about a particular recommendation, don't just toss the recommendation aside. Instead, discuss your concerns with the consultant and together you may be able to revise the recommendation so it has value for your business. **PM**

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