Morrison, McDonald, Issar and Taper in The Health Lawyer: Legal Risks Faced by Private Equity Investors in the Healthcare Industry

By Bill Morrison, Taryn McDonald, Neil Issar, Samara Taper | April 29, 2024

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Haynes Boone Lawyers Bill Morrison, Taryn McDonald, Neil Issar and Samara Taper authored an article for the American Bar Association's April 2024 edition of *The Health Lawyer* discussing legal risks faced by private equity investors in the healthcare industry as several recent government enforcement actions demonstrate that investors are at risk under certain healthcare laws and regulations.

Read an excerpt below:

Private equity investments in the healthcare industry have surged over the past decade. But the inflow of investment funds has brought government scrutiny with it, and several recent government enforcement actions demonstrate that investors are at risk under certain healthcare laws and regulations. Consequently, investors should be aware of conduct that can lead to liability so that they can limit risk effectively.

Private Equity Investments in the Healthcare Industry
As patient care continues to become more complex, healthcare providers are consolidating and transitioning away from small, fragmented, and provider-owned practices to larger, multi-office practices with greater access to capital and sufficient scale to manage both clinical and financial challenges.1 This push towards consolidation has facilitated investment from private equity firms in a variety of healthcare and healthcare-related businesses. As a result, we have seen a dramatic rise in healthcare investments in the past decade, which has led to a great deal of discussion of the impact of such investments.

The Numbers
Private equity investors have spent nearly $1 trillion in the past decade on healthcare acquisitions. Although it has been common practice for private equity firms to invest in nursing homes and other long-term-care or post-acute settings, there has been an increased focus on investing in high-margin specialties such as dermatology, urology, gastroenterology, and cardiology. In less than ten years, private equity acquisitions of physician practices across various specialties has risen more than 600%. And it is estimated that private equity firms own more than 30% of physician practices in nearly one-third of all metropolitan areas. These trends also extend to other sectors of the healthcare industry that are fragmented yet high margin, such as medical aesthetics (a.k.a. “medical spas”), dentistry, and eye care as well as the organizations that provide ancillary services for those sectors. For instance, by 2021, private equity firms owned 27 of the 30 largest dental services organizations, accounting for 84% of those organizations’ practice locations. Likewise, several large private investment firms have recently acquired significant interests in multi-office practices offering aesthetics services like laser hair removal, injectables, and body contouring.

To read the full article in *The Health Lawyer*, click here.

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