



Model Checklist: Venture Capital and Private Equity Investments

Physicians considering Venture Capital (VC) or Private Equity (PE) investment in their practice should be cognizant of key issues when negotiating with the investor. Transactions with VC or PE firms are often associated with unique terms and practical considerations, notably due to the firms' differing structures and strategic goals. The checklist below outlines top issues to consider. The AMA also has a [Snapshot](#) resource outlining strategic considerations in partnering with a VC or PE investor and a [Contractual Guide](#), including model contract language.

VC/PE 101

VC or PE Investment Structure

A VC/PE investment will usually involve a practice entity owned by one or more physicians, and an entity that is directly or indirectly owned by the VC fund/PE firm. The practice should thoroughly evaluate the VC or PE firm seeking to invest from both a financial and "corporate culture" standpoint. Physicians should be aware that the VC or PE entity will hold significant control of the practice operations post-transaction, and the value of such investment, which can be substantial in terms of capital and infrastructure benefit, should be weighed against any potential loss of physician autonomy and other factors detailed below.

Style of Practice, Specialty, and Risk Tolerance

Physicians should consider factors related to their day-to-day medical practice when looking at a VC/PE investment. VC or PE investors may have specialized capabilities if they have focused their investments in one specialty or subspecialty area, allowing for unique resources that may be attractive. VC or PE partners may allow for more latitude of clinical workflow and operational independence than other investors. However, there can be risks unique to a transaction with a VC or PE investor; some may seek to sell the practice to a third party moving forward, or may institute changes which could impact clinical practice or processes.

Retaining Practice Independence

Authority Over Medical Practice

The investor may require that physician ownership in the practice be limited to designated physician owners. The investor may have the right to replace any of these owners either at will or at the occurrence of certain events delineated in the contract. Physicians should be aware of these rights and any limitations thereto when entering into an agreement with VC/PE-backed investors. Otherwise, physicians may find themselves with a new clinician partner that they do not know or did not choose themselves.

Required Debt Funding

The investor may also require the practice to take on debt to fund the management fee and infrastructure investments. This debt may exceed the fees produced by the practice such that it must carry forward the balance and earn interest under a “Deficit Funding Loan Agreement.” In the event of a future termination or unwinding of the investor arrangement, the practice may remain responsible for the repayment of any such debt. The AMA has a [snapshot](#), [model checklist](#) and [contractual guide](#) on Unwinding Existing Arrangements.

Compensation Modifications

Terms of Sale

In many cases, the privately-backed investor will require the physician owners to sell their ownership interests and become employees of the practice. Physicians should evaluate the terms of the purchase, including the purchase price, employment compensation, and the duties of the investor entity. When initially negotiating the terms of an investment or sale, physicians should bear in mind that while Letters of Intent (“LOIs”) are not usually formally binding, engaging an attorney to evaluate and negotiate such terms is advisable, as terms laid out in LOIs are often difficult to walk back from in later stages of negotiation.

Purchase Price and Physician Compensation

Private investment is usually associated with an attractive up-front purchase price based on a multiple of the practice’s earnings. However, investors may also change the terms of future physician compensation, depending on how the transaction is structured. For example, physician compensation may move to a “draw” structure based on expected productivity. After receiving a one-time lump sum payment for the practice, some physicians may earn less over the long term than if current earnings were to remain stable; however productive physicians may still receive bonuses and other added compensation.

Infrastructure Investment

Management Services

The purchase agreement often obligates the investor to invest in the practice’s infrastructure in the form of management and administrative services such as human resources, revenue cycle, facility and equipment management, IT, payer contracting and strategic planning. While these investments can present a significant upside for practice operations, whole scale changes to electronic health record (EHR), revenue cycle management, and other practice infrastructure should be agreed to and planned for in advance of the deal.

Capital Investments

Capital investments can present opportunities to improve office infrastructure, patient experience and/or clinical workflow. Practices should evaluate factors such as costs that the practice may be required to bear for such improvements, physician input in the delegation and use of such capital and improvements, and whether they will be able to share in the savings or increased revenue resulting from such improvements..

Standardization Techniques and Economies of Scale

An investor who has invested in several physician practices will likely seek to standardize and use economies of scale to manage the practices in an efficient and profitable manner. Physicians should have a clear understanding of the scope of potential changes related to becoming a part of a larger network of practices, and whether they are comfortable with the impact of such changes on their practice.

Administrative and Management Services

Degree of Control and Oversight

Physicians should have a clear understanding of the degree of control and oversight an investor may have on a practice after the initial investment and how administrative responsibilities will be allocated to each of the parties. A practice should clearly identify the responsibilities and decisions that it is willing to share, and those that it wishes to retain when negotiating contracts with VC/PE-backed investors.

Change in Administrative Practices

VC/PE-backed investors often establish teams responsible for establishing standardized administrative and management processes across the practices the entity manages. Physicians should be prepared for a thorough evaluation of their existing processes and have a clear understanding of the impact that an investor is likely to have on its administrative and management functions.

Dispute Resolution Procedures

Physicians should understand the consequences of disagreements with the investor, including whether there are any limitations on the investor's ability to terminate their employment and whether the investor can require a physician to sell his or her shares of the practice. Physicians should negotiate dispute resolution procedures so that the parties have an agreed upon mechanism to resolve disagreements before resorting to terminating an agreement or unwinding a relationship.