

12 Strategies to Improve your Job Negotiating Skills

Editor's Note: This article was adapted and updated from the Physician Business Academy course "Finding the Right Physician Job" by Koushik Shaw, MD. Additional reporting by Gail G. Weiss.

Negotiating your employment contract can be nerve-racking. Once you sign the contract, there's no going back. "The most intimidating thing I had to do during my residency and fellowship training had nothing to do with patient care. It was negotiating my first employment contract," a physician wrote in a blog^[1] for the American Academy of Family Physicians.

The best way to deal with your contract is to take a serious, balanced approach. Read it carefully, and have a healthcare attorney read it too. If you find problems, ask for reasonable changes.



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Will Employers Negotiate?

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Some large organizations insist on standard contracts and refuse to change even a comma. Smaller practices may be more accommodating, but if they're in a highly competitive market—such as a large metro area, where they can expect plenty of other candidates to apply for the job—they often stick to their guns.

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The main reason that contracts are signed without changes is that many physicians don't want to go through the bargaining process. You can keep the stress to a minimum by familiarizing yourself with the process and planning ahead.

Prepare for Successful Negotiations

1. Screen out problem employers. This is the time to listen to your gut. Does the employer seem fair, and does the job seem stable? If not, reject the job offer and move on to a new prospect.

2. Have an advocate in the organization. One reason to establish rapport with the people who interview you is to turn them into your advocates. Then, when management is weighing your requests for contract changes, your internal advocates will urge the administrators to at least partially accommodate you.

3. Bring up unusual requests early on. For example, tell people during the interview stage that you prefer a 4-day workweek. If they agree, get it in writing. Oral assurances mean nothing.

4. Hire an attorney. Don't try to review the contract on your own. Attorneys with expertise in physician contracts can zero in on potential pitfalls that might never have occurred to you. Also, they usually know reasonable salary levels, how to negotiate changes, and which provisions can—and cannot—be revised. Jonna D. Eimer, a physician contract attorney in Chicago, states, "You might not always obtain the changes you want, but your attorney should ensure that you understand what you are signing and there are no surprises in the contract."

Hiring an Attorney: 3 Critical Questions

When should I hire an attorney? Do this early in your job search. A contract offer could come up unexpectedly, and you need to be ready.

How do I find an attorney? Ask your residency director or physicians who have recently gone through contract negotiations; contact your

specialty society; or ask for recommendations on social media. Attorneys at your medical school or residency program might provide services at a discounted rate.

How much do attorneys charge? According to Eimer, "Many attorneys who work for large or mid-sized firms—like myself—charge an hourly rate, but some offer a flat rate. Even with an hourly rate, your attorney should give you an estimate of the time needed to review and negotiate a contract." The work can take as much as a dozen hours, depending on what services are provided. The attorney might only review passages that you've marked, review the whole contract, or draft a full rewrite.

Attorney Versus Nonattorney: Whom Should I Hire?

Can an attorney get me more money? In some cases, attorneys can negotiate a higher signing bonus, more money for moving expenses, or even a higher base salary. But their main function is to identify facets of the contract that could ultimately harm you.

Can the attorney do the negotiating for me? Usually, attorneys only give advice and leave it up to you to negotiate the contract. Some attorneys, however, will negotiate on your behalf—but, of course, they will charge extra for that.

Should I hire a nonattorney? Nonattorney contract services tend to charge clients less and have won endorsements from some physicians. These companies maintain that because contract negotiation involves many nonlegal matters, such as reimbursement, a full legal background is not necessary for this work.

Take the Letter of Intent Seriously

After a job offer is made and before the contract is drafted, the employer may send you a letter of intent, also known as an "offer letter." This letter outlines certain key provisions that will come up in the contract—such as salary, job obligations, and termination provisions—but it is much shorter than a contract. You may be asked to sign it, and many physician job candidates do sign. This can be a mistake.

Although the letter of intent is generally not legally binding, employers can use it to set provisions in stone early in the negotiating process. "My experience is that employers rely on the terms of the letter of intent," says Eimer. She recommends negotiating the letter and making changes to the job offer at this point in the contract process.

In a 2015 article^[2] for her law firm, Much Shelist, Eimer recalled her experience with a letter of intent signed by a physician client of hers. A hospital employer pushed the client to sign, stressing that it was nonbinding and final details would be hammered out later. But when contract negotiations started, the hospital's attorneys pointed to stipulations in the letter of intent as "the agreed-upon final terms of the parties and used this argument to refuse later changes," Eimer wrote.

If you haven't been given a letter of intent, you may want to ask for one. It might simplify contract negotiations later on.

That said, a letter of intent can actually help you, because it puts in writing promises that the employer had only stated orally. In fact, if you haven't been given a letter of intent, you may want to ask for one. It

might simplify contract negotiations later on.

You can use the letter of intent to determine whether it's worthwhile to pursue negotiations. If you and the employer are far apart on essential issues at this point, you might have to walk away from the job. It will save you the aggravation of negotiating a contract that the employer won't bend on.

The increased use of letters of intent means you may have to look into issues that otherwise would first come up with the contract. It may be a good idea to hire a contract attorney at this point to review the letter of intent and advise on changes.

Dealing With the Contract

"Physicians who are comfortable with contract language can do their own negotiating," says McMahan. "However," he adds, "there is real value in having an intermediary in any negotiation. Having a third party negotiate on your behalf gives both you and your potential employer someone they can have hard conversations with, without fear of permanently damaging the relationship between the two of you. This is especially true for issues where things could get heated."

Read the contract sentence by sentence, at least three or four times, and send a copy to your lawyer. Most contracts are eight to 30 pages long. The longer ones are generally better for you, because they contain more specifics instead of open-ended language that allows employers to do what they want.

Detailed knowledge of the contract will make you a better negotiator—assuming that you will be the negotiator. Even if your lawyer does the

negotiating, you'll still have to play an integral role. Make a list of problematic provisions, starting with possible deal-breakers, followed by matters you might be willing to compromise on. Share this list with your attorney, who may accentuate different items.

Some contract provisions are easy to negotiate. These include the start date; aspects of the work schedule; and fringe benefits, such as a signing bonus and funding for continuing medical education (CME). Base salary, productivity bonuses, and termination issues are often harder to amend.

Call the employer if you have concerns about the contract. Most employers will agree to hear you out. Send them a clearly written document showing the provisions you'd like to change and the language you'd like to insert.

It is not uncommon for offers to be pulled if you are seen to be too difficult to work with.

Don't expect an immediate response. While holding fast on many issues, the employer may back down on a few or offer some compromises. "The goal is not a scorched earth negotiation where one party wins and the other loses," says McMahan. "Both parties need to be able to work well together. It is not uncommon for offers to be pulled if you are seen to be too difficult to work with."

On the plus side, it's better to walk away from an ill-fitting job than to accept it and suffer the consequences.

Key Negotiation Pointers

5. Work from a script. Whether you negotiate by phone, email, or in person, draft a few talking points on critical issues. Have your attorney review your script.

6. Be prepared for compromises. This isn't like buying a car, where you may never see the dealer again. These are people you can expect to work with for years, so you need to build strong relationships with them.

7. Don't accept reassuring verbal statements. You'd be right to doubt such assurances as "Our attorney always puts that in there" or "That won't apply to you." If a provision is in the contract, it does indeed apply to you. Conversely, stipulations that aren't in the contract don't exist.

8. Leave yourself an out. It's helpful to have another job possibility in the wings. If you have no other prospects, a locum tenens job can hold you over.

Understanding and Negotiating for Compensation

If you're fresh out of training, the modest stipend you've been making won't prepare you for what you will earn now. This means you might dramatically underestimate—or overestimate—what you'll get.

Some practices still base compensation on the physician's share of collections. Increasingly, however, payment is based on productivity, which is measured in work relative value units (wRVUs). Each billing code has a specific wRVU. Because this approach ignores reimbursement levels, physicians with a lot of Medicaid or capitated patients can be paid quite well under wRVUs.

Employers set a target number of wRVUs for physicians by consulting the Medical Group Management Association (MGMA) benchmarks, which are based on surveys of physicians. They then use a standard dollar amount to convert RVUs into compensation.

You can access MGMA data through your recruiter, contract attorney, or other channels to calculate your expected compensation. Compare that figure with what the employer is offering. If your figure is higher, you might have a good case for more reimbursement.

The MGMA data have six applicable variables: practice ownership, group type, geographic region, demographics, number of partners, and call responsibilities. You can estimate your expected compensation by adding up these variables and dividing by six. Or you can ask the employer for your predecessor's wRVU level. This figure would be more edifying than anything you could calculate on your own.

Attempts to estimate your income rarely yield the exact amount. Each employer uses a complicated mix of base salary, productivity, and other measures, such as patient satisfaction and quality benchmarks. The exact formula should be in your contract.

Other factors that will affect your pay are location, practice setting, partnership opportunities, and tuition reimbursement. You need to take these all into consideration when looking at salary.

Pointers on Compensation

9. Keep an eye on base salary. It should be a significant percentage of the MGMA median. This is important, because you won't qualify for

a bonus unless you reach a target figure that may be unattainable—and the base amount may be hard to change in ensuing contracts.

10. Don't be swayed by your first-year salary. You'll probably be paid a guaranteed salary in the first 1-3 years, but after you shift to a compensation formula, your income might fall. For those reasons, you should focus on the formula.

11. Initial payments don't reflect the long term. The employer may offer you a hefty signing bonus, cover your moving expenses, and even pay off some of your student loans. But these are one-time payments, and you might have to reimburse the employer if you leave before the contract expires.

12. Keep your eye on productivity targets. The compensation formula is typically made up of a base salary plus a productivity bonus, which isn't paid unless you meet the wRVU target.

Watch for Compensation Cautions

Higher compensation may mean extra duties. A salary that is several thousand dollars higher than other employers offer might require extra call, rounding in the hospital, driving to remote locations, or serving on numerous committees. Read the fine print.

Income-based compensation can be knotty too. Many groups base compensation on practice income minus expenses. Find out whether your pay would be based on your own collections, or whether collections have to be divided evenly, even if you see more patients. And what constitutes expenses? Do they include new ventures of certain physicians in the practice?

Productivity formulas may shortchange some doctors. In a single-specialty practice, for example, surgeons performing a few very complicated surgeries per day might not generate the revenue of colleagues seeing 30-40 patients in the office, even though they work just as hard. In these cases, wRVUs would be fairer measurements.

Partnership Track in a Private Practice

Some practices deliberately make it hard to go from employee to partner. The contract can protect you by spelling out what you need to do to reach partner level.

Practices may avoid setting down exact criteria so they can make their own decisions, but this is unfair to you. Try adding provisions to the contract, such as a timetable for the transition and a list of buyout costs.

Making partner usually means buying into the practice. The amount you pay should cover fixed assets, such as real estate and equipment, but not soft assets, such as goodwill, which is the estimated value of the patient panel and could be worth very little.

The amount you have to pay should be based on an outside financial analysis. And rather than paying a flat rate, you should be able to make payments over time.

Other Aspects of the Contract

Contract provisions to watch out for include automatic renewal without your consent, and allowing the contract to expire in the event of a buyout. Be on the lookout, too, for a delay in starting your health

insurance coverage and other benefits, and pay attention to how the employer resolves disputes between doctors and management.

Review what the contract says about call coverage, office hours, time off, and CME requirements. Open-ended job descriptions, such as "full-time work," fail to define the number of hours you have to work, the number of patients you have to see, and your weekend and holiday duties.

The contract might state that the employer will decide call arrangements. This allows senior physicians to shift their call duties onto you—the newbie. Call arrangements should be specified.

Similarly, a large health system may assign new physicians to outlying clinics, requiring a half-hour drive each way. If you have to take these assignments, make sure your commuting time doesn't impair your productivity measurement.

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Look out for provisions that might limit your treatment and referral decisions. You may want to add a provision to the contract that bars the employer from interfering with your professional judgment or medical decision-making.

The more you ask for, the less likely you are to get. As McMahan points out, "Neither side's object should be winning every element of the negotiation. Try and find something mutually beneficial. Look at areas other than salary for potential places to negotiate."

McMahan continues, "You should never bluff in a negotiation unless you really are willing to walk away from the job. I have seen physicians blow up potential jobs by too aggressively trying to take advantage of the opportunity. Oftentimes in your push to get as much as you can, all you're really doing is pushing the employer away."

Secure Tail Coverage

Employers typically cover your malpractice premiums, but they may provide claims-made policies. This means that if an incident occurred while you were working for the employer but the suit was filed after you left, it wouldn't be covered by the employer's policy.

If your next employer also has claims-made coverage, which is likely, you'd have no coverage for this incident. To fill this coverage gap, you'll have to purchase tail insurance, which can cost tens of thousands of dollars. The contract may not provide tail coverage, and employers are often reluctant to add it, because then it would be easier for you to leave.

Here is an instance where you could offer a compromise that would allay the employer's concerns that you might leave. For example, you might offer to pay two thirds of the tail in the first year, but then your employer would pay two thirds in the second year and the full premium in the third year and beyond.

Understanding a Noncompete Clause (Restrictive Covenant)

If you leave before the contract expires, you might be subject to a noncompete clause. Also called a "restrictive covenant," this contract provision bars you from practicing within a certain radius of your

employer for a specific number of years.

This clause is barred in a few states, including California and Massachusetts, and New York and New Jersey are among the states that place strict limits on its use. But in most states, courts allow the noncompete clause as long as the radius and length of time are reasonable. Courts have struck down extensive radiuses, but there is no universal limit. It depends on your specialty and whether you're in an urban or rural area.

Even when employers agree to drop the noncompete clause, there are ways for them to make it hard for you to leave, such as forcing you to pay for your tail coverage or making you return your signing bonus or moving stipend.

Review Termination Language

Many contracts use vague language regarding employment termination.

Employers can fire anyone for cause—such as losing your license or being convicted of a felony—but the contract might also stipulate that you could be let go for behavior "contrary to the best interest" of the organization.

Rather than allow such open-ended language, the contract should set out specific circumstances that could lead to termination. Ask your attorney to recommend appropriate wording. Eimer advises, "Where the employer allows, try to add language that gives the employee notice of the nature of any violation and a chance to cure such behavior if reasonable."

Next Step: Your New Job

After you sign the contract, you need to set up your licensing and credentials, find a new home, and move. Maybe you have a spouse who needs to find a job in the area and children who need to be registered for school.

Then you'll have to start the job, which involves meeting your new coworkers and learning the ropes. The job search should have prepared you for these changes.

Finding a good job takes some effort, but it is manageable if you start on time, do your homework, and present yourself in the best way possible.

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