Disclaimer: The information and works presented today express our own views and opinions, and do not represent those of our employer.
"I WALK DOWN THE STREET.
THERE IS A DEEP HOLE IN THE SIDEWALK.
I FALL IN.
I AM LOST... I AM HELPLESS.
IF ONLY MY FALL.
IT TAKES FOREVER TO FIND A WAY OUT.
I WALK DOWN THE SAME STREET.
THERE IS A DEEP HOLE IN THE SIDEWALK.
PERSON DON'T SEE IT.
I FALL IN AGAIN.
I CAN'T BELIEVE I AM IN THE SAME PLACE.
I TRY TO GET OUT.
IT STILL TAKES ME A LONG TIME TO GET OUT.
I WALK DOWN THE SAME STREET.
THERE IS A DEEP HOLE IN THE SIDEWALK.
I LEFT THE HOLE TO SEE.
I FALL IN. IT'S A HABIT.
MY EYES ARE OPEN.
I KNOW WHERE I AM.
IT IS MY FAULT. I GET OUT IMMEDIATELY.
I WALK DOWN THE SAME STREET.
THERE IS A DEEP HOLE IN THE SIDEWALK.
I WALK AROUND IT.
I WALK DOWN ANOTHER STREET."

BENCHMARKING
Group exercise: Audience benchmarking
ACQUISITION TIMELINE

Due diligence

Final Checklist and Execution

Compile Action Items for Risk Mitigation and Determination

APPRECIATING THE LANDSCAPE

Assets
- Real estate/office space
- Office equipment
- Lab/clinical equipment
- Computers/telecommunications
- Electronic health records
- Paper medical charts
- Licenses (Business, IT, etc.)

Participants
- Credentialing
- Supply Chain
- Finance
- Strategy
- Compliance
- Legal
- Quality/Risk
- Operations
- Executive Leadership

IDENTIFY POTENTIAL PITFALLS

- Asset evaluation
- Privacy and Security
- Hiring
- Culture
ASSET EVALUATION

Failure to properly evaluate assets, or to inaccurately assess equipment values, can result in:

- Anti-kickback or Stark law violations
- Loss of revenue
- Reputational harm

EVALUATING ASSETS: WHAT CAN GO WRONG?

Case example

TRAIL GUIDE FOR ASSETS

Location

- Healthcare real estate ≠ commercial real estate
- Use vendors with experience in healthcare real estate and real estate transactions
- Avoid leases at sub-optimum locations and consider reputational damage from prior location

Relationships

- Commercially reasonable
- Need legitimate business purpose for renting from a provider-owned building
- Need arms-length transactions
- Fair Market Value applies at all times
• Include the use of fair market value (FMV) when appraising equipment, space and other items recognized in the Asset Purchase Agreement.
• Use vendors who are experienced in appraising equipment in a healthcare environment
  • Avoid inaccurate appraisals due to liens or no consideration of depreciation, etc.
• Consider costs to purchase and refurbish/re-image to match the organization’s security standards v. replace devices/network infrastructure.
• Consider license, maintenance, archiving costs for the transition and integration periods.

PRIVACY AND SECURITY RISKS
Failure to properly assess privacy and security risks can result in:
• HIPAA, SAMSHA, and state privacy law violations
• Loss of data from Ransomware and other malware attacks
• Loss of patient and community trust and other reputational harm
• Loss of revenue

Case example
Avoid purchasing legacy systems
Need gap analysis on security standards for IT devices/systems
Identify ownership for risk mitigation plan, archiving steps. Pull such costs into Asset Purchase Price.
Consider a full "re-boot" on Privacy expectations and education, especially in rural settings.
Consider active and automated monitoring of user access logs, especially in rural settings.
Physical walk-through of privacy and security safeguards is essential to capture risks to which current operations may be desensitized.

TRAIL GUIDE
FOR PRIVACY AND SECURITY
Know your technology systems
Privacy culture and awareness
Physical safeguards

HIRING PROVIDERS AND STAFF
Failure to properly vet providers and staff can result in:
- Patient harm from bad actors
- Decreased quality/performance scores
- False Claim Act violations
- Loss of revenue from CMS ineligibility (conditions of participation)
- Reputational harm

HIRING PROVIDERS: WHAT CAN GO WRONG?

Case example
Case example
Licensure issues:
- Contract language: must have active license in good standing
- (copies of provider Ask you currently working)
- Balance the load of primary care vs. specialties/sub-specialties with the organization’s strategy (Think: growth and stability)
- Avoid costly promises: excessive sign-on bonuses, guarantees of jobs for family/friends, selecting payer panels, etc.
- Conflicts of interest: vetted before closing the deal
- Have a Management Plan in place before contract is executed
- Medical necessity reviews must be performed for specialists
- Coding concerns must be addressed in a timely manner

TRAIL GUIDE FOR HIRING
Checkpoints for Physicians and other clinical providers

HIRING STAFF (NON-CLINICAL):
WHAT CAN GO WRONG?

Case example

Work with human resources to make sure the staff retained in the purchase are placed in the correct classification and have the skill sets needed for their roles
- Qualifications and licenses:
  - Review qualifications for ALS/BLS, other certifications
  - Review scope of license vs. historical practice
  - Meaningful use requirements related to CMA, RMA roles in EHR and attestations
  - Offers of employment should contain contingency language where applicable
  - Drug screens, certifications, licenses, COI management plans, etc.
CULTURE OBSERVATIONS
Contradictions or inconsistencies between mission and acquired partners or components can result in:
- Conflicts with service line operations (staff confusion)
- Decreased sense of trust and community
- Disengaged employees and lower productivity

MERGING CULTURES: WHAT CAN GO WRONG?

- Case example

TRAIL GUIDE FOR CULTURE
- Bring the missions team to the table early in the process
- Have timely dialogue around service lines or procedures that may appear inconsistent with ethical and religious directives
DUE DILIGENCE IS VITAL

What to do when the due diligence recommendation is not heeded?

The purpose of due diligence process is to ask the questions and document the responses and observations.

When effective, the due diligence process will identify potential risks, justify or quantify the level of risk based upon laws, regulations, mission, etc., and to return a recommendation to the stakeholders.

Make sure legal counsel (in addition to stakeholders/strategy team) is aware of the recommendations from due diligence efforts.

TRAIL GUIDE FOR REJECTION OF DUE DILIGENCE RECOMMENDATION

Manage expectations

Due Diligence Game Time!

GROUP EXERCISE