

Who Wants to Be a Physician Pharmacy Owner?

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By Michael H. Cohen

In today's video, we discuss whether physicians something that many of our physician clients have asked us about, namely, whether they can operate and open their own pharmacies or even have ownership interest in a pharmacy.

Many of our physician clients have indeed asked us this very question, and it's quite understandable that medical doctors who have their own healthcare businesses would think of branching out into a pharmacy. By the end of this video, you'll be familiar with some of the kinds of regulations facing physicians who want to start pharmacies.

I'm Michael H. Cohen, founding attorney of the Cohen Healthcare Law Group. We've advised hundreds and hundreds and hundreds of healthcare industry clients on healthcare and FDA legal issues, including many physician clients just like you.

To start examining this issue of physician pharmacy ownership, let's take a look at Texas law just for example.

Texas law does not specifically prohibit physician ownership in pharmacies, however, if the physician owner is a referral source, then the Texas Anti-Solicitation Statute will apply, making it illegal. In order to determine then whether this is allowed in Texas, we need to analyze whether being a physician and sharing in the profits or making referrals from your company or practice falls under an exception or safe harbor. The statute is not limited to Medicare and Medicaid but it applies equally to private insurance and cash payers. Go figure, it's a state statute.

The next thing to note is that there are some states, and Texas was one of these, where physicians are not allowed to dispense medicines onsite. These states may have an *"immediate need exception"* allowing the physician to dispense for example 3 days of medication, or permit dispensation for rural areas with few pharmacies. However, under these exceptions medications generally must be sold at-cost. An experienced healthcare attorney can help explain the legal and regulatory environment in your state to you. And again, states do differ but there are some common realities which is why we go through these in the video.

Another issue that has to be considered is the type of prescriptions that will be offered. Prescriptions for controlled substances or compounded prescriptions require further analysis since they have different requirements. Texas and other states have increasingly been scrutinizing physician investment in compounding pharmacies with expanding investigations into kickbacks and referrals.

So, after considering the state-level regulations and how those could affect you, as we just did for some of the Texas ones, this is the next one you've got to consider.

There's more to this than just a quick dive, if you have more questions, please [contact us to](#) book an appointment. We look

forward to speaking with you soon.

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