

ALI CLE/ACREL

**How to Develop, Finance, and
Invest in Health Care Facilities: A
Real Estate Practitioner's Guide**

March 4, 2014

GREGORY G. GOSFIELD, ESQ.
Klehr Harrison Harvey Branzburg LLP
1835 Market Street
Philadelphia, Pennsylvania 19103
(215) 569-4164
ggosfield@klehr.com

TABLE OF CONTENTS

	Page
1. FUNDING PROGRAMS	4
1.1. Structure	5
1.1.1 Health System as Developer	5
1.1.2 Third Party Developer	5
1.1.3 Physician practice as Developer	5
1.2. Joint Venture	6
1.2.1 Additional Capital	8
1.2.2 Distributions	8
1.2.3 Admission and Withdrawal	8
1.2.4 Transfer	8
1.2.5 Exit	9
1.2.6 Disputes	9
1.2.7 Defaults	9
1.2.8 Attorney Conflicts	9
1.3. Commercial Mortgage Loan	11
1.3.1 Debt Funding Framework	11
1.3.2 Benefits of Debt Funding	12
1.3.3 Complications of Debt Funding	12
1.3.4 Additional Capital	12
1.3.5 Distributions	12
1.3.6 Admission	12
1.3.7 Transfer	12
1.3.8 Exit	13
1.4. Master Lease	13
1.4.1 Master Lease Framework	13
1.4.2 Master Lease Framework for Construction	14
1.4.3 Master lease Framework for Operations	15
2. SPECIAL HEALTHCARE FACILITY REVENUE ISSUES	16
2.1. Background	16
2.1.1 Patient protection and Affordable Care Act	16
2.1.2 ACA Market Forces	16
2.2. Sponsor Disqualification	18
2.2.1 Licensure Regulatory Framework	18
2.2.2 Managing Disqualification Risk	19
2.2.3 Managing the Risk of Exclusion from Federal Reimbursement	19

2.3. HIPAA	20
2.3.1 HIPAA Regulatory Framework.....	20
2.3.2 Parties and Subject Matter.....	20
2.3.3 Risks Relating to HIPAA	21
2.3.4 Managing Risks of HIPAA	22
2.4. Stark and Anti-Kickback.....	24
2.4.1 Stark and Anti-kickback Regulatory Framework.....	24
2.4.2 Risks Related to Sublease Rent	27
2.4.3 Gray Areas.....	27
2.4.4 Managing Risks of Stark and Anti-kickback; Safe Harbors	28
2.5. ADA.....	29
2.5.1 ADA Regulatory Framework	29
2.5.2 Managing the Risk of ADA.....	30
2.6. Sensitive, Controlled and Hazardous Substances	30
2.6.1 Substances Regulatory Framework	30
2.6.2 Managing the Risk Relating to Hazardous Substances	31
3. Conclusion	32

For complete content, please contact Gregory G. Gosfield
215-569-4976 | ggosfield@klehr.com