

## Ancillary Revenue and Healthcare Cost Savings:

### *The Case for Surgeon Owned Implant Distribution*

Paul Burton, DO  
Arrowhead Orthopaedics  
Redlands, California

## Disclosures

- Alliance Surgical Distributors (Partner)
- Inland Spine and Orthopedic Products (Partner)
- Synergy Surgical Technologies (Partner)

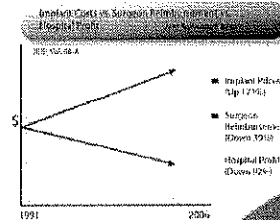
## Outline Surgeon Owned Distribution

- Why is this Emerging Now?
  - ✓ Escalating Implant Prices
  - ✓ Decreasing Surgeon Reimbursement
  - ✓ Decreasing Hospital Profit
- Compare Alternative Solutions
- Legal and Ethical Considerations
- Case Study
- Set-up of a Surgeon Owned Distribution company

## Why is This Emerging Now?

The costs of orthopedic implants continue to rise, over 13% annually, in a market in which hospital profit and physician reimbursement continue to decline.

### The Problem:



This is an  
Unsustainable  
Trend

## Key Factors in the Problem and Solution

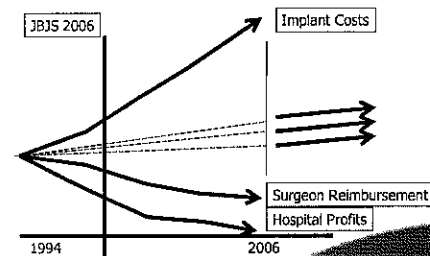
### Problem

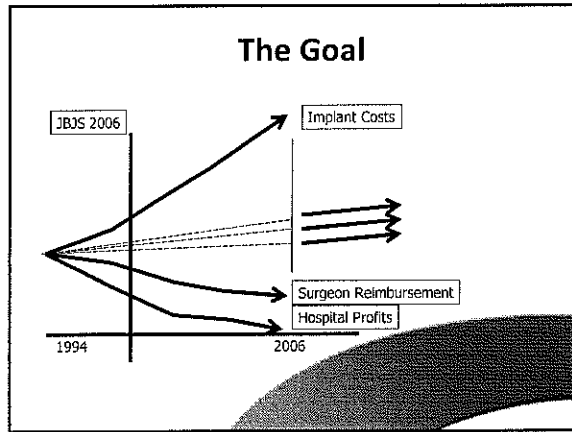
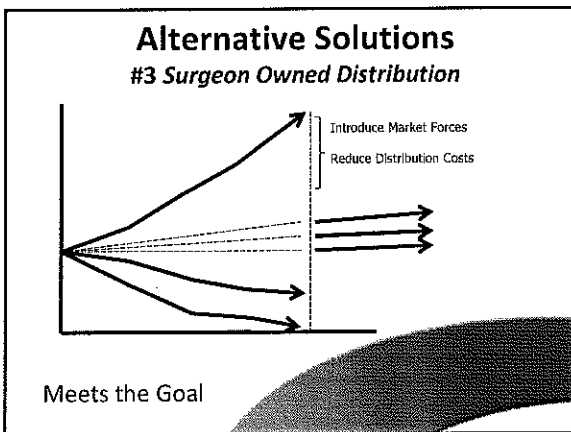
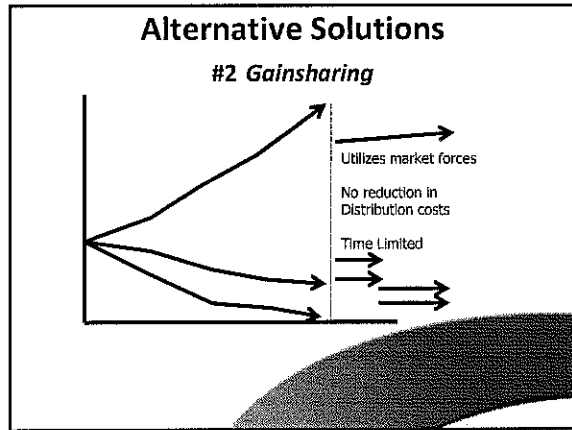
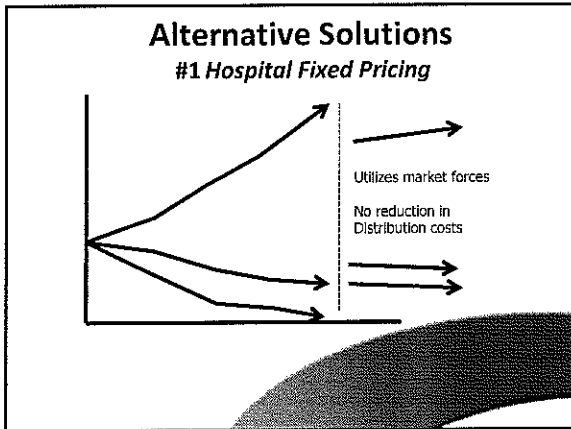
- Decision maker is not the purchaser
- Absence of effective price negotiation and price control
- Highly paid distributors and product reps

### Solution

- Surgeon becomes the purchaser
- Surgeon negotiates and controls price
- Surgeon determines the product rep salary

## The Goal





## Surgeon Owned Distribution

### What it IS: Stocking Distribution Model

- Purchase Inventory
- Hire Product Reps
- Contract Directly with Hospitals
- True Ancillary Business

### What it IS NOT: Commissioned Model

- No inventory purchase and little financial risk
- Guaranteed percent of sales (pass through)

## Is it Legal?

### Federal

- 2005 Crowell and Moring
- 2007 updated 2009) Hooper, Lundy & Bookman, Inc. (Largest healthcare law firm in the US)

"Based upon the facts, assumptions and legal analysis set forth, we conclude that Manufacturers sales of medical devices to the Physician Owned Distribution Company, physicians investment in the Distribution Company and sales of implants by the Distribution Company to the hospitals and ASC's should not be found to be prohibited by federal anti-kickback or self-referral laws or by California similar laws."

"With respect to federal Stark law, we conclude that the exception for indirect remuneration (42 CFR 411.357(p)) will be available."

## Is it Legal? California

- **California Attorney General Bill Lockyer**

Opinion #05-614 February 27, 2006

"A physician generally may prescribe for a patient a medical device that is distributed by a company in which the physician has an ownership interest, provided that any return

on investment is based upon the physician's proportional

ownership share and requisite disclosure is made."

## Is it Legal? Hospitals

Cleared by the Legal Departments of:

- Catholic Healthcare West
- Arrowhead Regional Medical Center
- Redlands Community Hospital
- Centura Health System
- Exempla Lutheran
- Gerald Champion Regional Medical Center

## Surgeon Owned Distributorship

Legal Requirements Include:

- Adhere to all state and federal self-referral and anti-kickback laws
- Demonstrate financial risk (investment)
- Perform all functions typical of medical device distributorships
- Offer pricing that represents the lowest average cost for like implants
- Sell membership interest at fair market value without concern for volume or value of referrals
- Distribute profits based on investment interests

## Surgeon Owned Distributorship

Is this ethical?

- Depends on the actions of the individual using the model
- Providing you intend to act ethically – its ethical.
- Only distribute products that meet or exceed the quality of your current products.
- Hire qualified and competent product rep
- Provide complete disclosure to your patients.
- Transparent to the hospital and colleagues.
- Demonstrate merit (cost savings)

## Surgeon Owned Distributorship

Utilization

- Baseline product utilization is recorded and any increase is critically evaluated.
- Utilization data is open to audit by contracting hospitals and government

Product Quality

- All products used have been critically assessed by the surgeons
- All products have been cleared by the FDA

## Case Study

Inland Spine and Orthopedic Products, LLC

### 4 Orthopedics Surgeons formed a LLC distributorship

- contracted with local hospitals
- hired a product rep
- leased space
- purchased inventory stock
  - Pedicle Screw System - Total Hip - Total Knee
  - Interbody Cage - Cervical Plate System

Continued Effects:

- Prices have not increased since 2006
- 2010 7% price reduction
- Outstanding Return in Investment

