



BY BRUCE D. ARMON, ESQUIRE AND EVAN J. FOSTER, ESQUIRE

## Don't let your next IT project crash your practice

**P**HYSICIANS AND MEDICAL PRACTICES ARE AT THE vortex of the electronic health care delivery system. Droids, tablets, smart phones and other devices are changing the way society generally, and health care practitioners individually, gather, store and transmit useful (and sometimes not-so-useful) information.

Many physicians and their practices are moving quickly to implement electronic health record systems, e-prescribing functionality or to generally enhance their current technology to take advantage of the incentives offered to “meaningful users” of health information technology under the Health Information Technology for Economic and Clinical Health (HITECH) Act or because of their participation in an ACO.

Selecting the wrong vendor or the wrong technology, however, can be a big mistake and result in cost overruns, delayed billing or reimbursement, and lost time and productivity.

To help ensure the success of your next IT project, consider these dos and don'ts in evaluating and selecting the vendor and technology.

### **Do due diligence on the vendor and the technology.**

Many physicians and practices do little, if any, due diligence on their vendor or the technology.

At a minimum, practices should talk to others using the same vendor and technology. These conversations should include practices that are in the implementation process, those that recently completed implementation, and those that have been using the technology for a significant period of time.

Talk to other practices of similar size, with a similar number of locations and within the same specialty, if applicable. Your vendor should be able to provide references.

If you are considering using specialized features or functionality, or have what you believe are a unique set of circumstances, you need to do additional homework and ask ad-

ditional questions. You should also do some Internet research and review the vendor's support forums. This information can help identify potential problems and let you better understand the vendor's approach to handling customer concerns.

### **Don't automatically take a solution offered by an existing vendor.**

WITH THE DEMANDS ON YOUR PROFESSIONAL TIME, it is tempting to simply accept the proposal from your external practice consultants. Resist the urge.

Though there may be advantages and efficiencies to be gained from expanding your relationship with a current vendor, this can also backfire if the relationship turns sour.

Having all of your critical practice functions performed by one vendor makes you totally beholden to that vendor and creates a “single point of failure” should the vendor run into financial issues or otherwise goes dark. Transparency in understanding the financial relationship between your practice consultant and the product(s) they are suggesting is important. Use the same caution and perform the same level of due diligence as you would with every third-party vendor. You should insist that the IT component be severable from the remainder of the services provided to ensure you can transition a portion of the services you are receiving while keeping others in place.

### **Don't skip acceptance testing.**

AS TECHNOLOGY EVOLVES and systems become more complex, the chance of something not working correctly increases dramatically. It also becomes harder to troubleshoot and correct problems once they arise, often involving multiple vendors and/or systems.

Engage in a formal testing and acceptance process. This is especially important when software must exchange data with

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other systems or must be compatible with existing software or hardware. To ensure the vendor stays committed to resolving all issues, consider holding back a portion of the payment until acceptance is achieved, or tie payment to achievement of certain milestones.

### **Do demand financially backed service levels.**

WITH MANY VENDORS NOW OFFERING SYSTEMS delivered as “software as a service” or from the “cloud,” performance issues are not confined to the walls of the practice.

Connectivity, bandwidth and load on the vendor’s systems can all impact the day-to-day operations of the practice, and continual poor performance can reduce buy-in and confidence in the system. To address these concerns, ask the vendor to commit to or guarantee certain levels of uptime, availability and performance of the technology or system. These are typically called service levels.

In addition, consider asking the vendor to provide service levels for support issues, such as time to return a phone call or email. In all cases, to ensure that the agreed service levels have “teeth” and are not just window dressings, practices should demand a credit of fees in the event a vendor fails to meet a service level, with multiple or repeated failures giving the practice the right to terminate.

### **Do have all agreements reviewed by your attorney.**

WHEN YOU PURCHASE A PRODUCT OR SERVICE, you will need to sign various agreements, and you are responsible for all terms and provisions included in the documents.

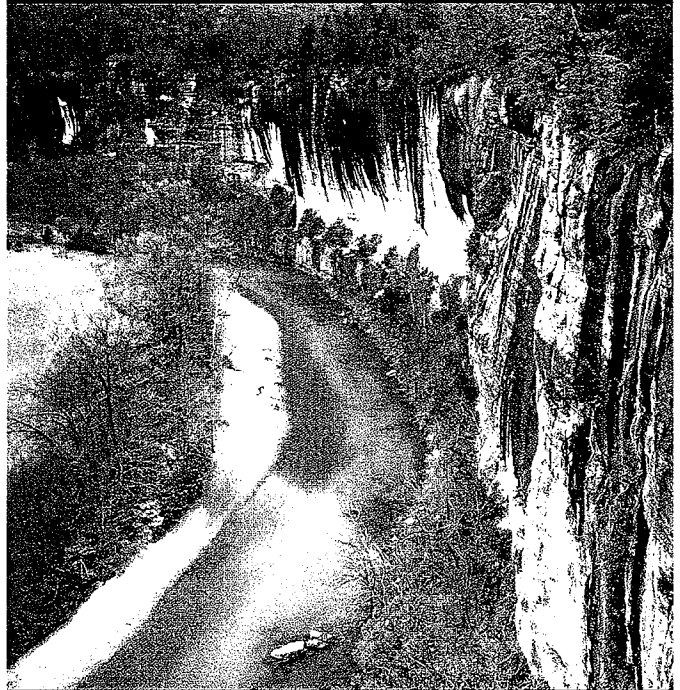
In addition to the various vendor contract documents (such as software license, subscription or services agreement), there will likely be numerous exhibits, schedules and appendices. The devil is in the details of every single document.

Beware vendor proposals, quotations, statements of work or policies that include legal terms that you are told are standard. Don’t assume they don’t require legal review. Be on the lookout for “moving targets,” such as terms contained on a vendor’s website or vendor policies that are subject to change. Consider attaching the current version to the contract and requiring the vendor to seek your approval before it can be changed.

Regardless of what the sales team told you, if a provision is important or meaningful, get it in writing and make it part of the contract. Part of the reason to have your attorney review the documents is that you may not know what to ask for or expect as part of the agreement. When in doubt, err on the side of over inclusion.

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## Legal Matters

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### Don't assume pricing is all-inclusive.

IT IS IMPERATIVE THAT YOU UNDERSTAND what the purchase price includes and excludes.

Get the total cost for the entire purchase. Understand the incremental costs if you add physicians or staff to the technology. Understand the costs if you need to delete a user because he or she is no longer employed by the group. Recognize there may be a cost if you are switching from paper to electronic. Who will pay these costs? Is there an annual maintenance fee? Will your fees automatically increase over a period of time? Are there any caps on fees?

### Do plan for the worst case.

NO ONE LIKES CHANGE, and most people do not welcome change. Changes in technology can be disruptive, frustrating and make one question the original decision. There can be installation delays, training delays, and other glitches.

You will get through the process, though it may take longer than anticipated. Be sure that everyone—from the most senior physician to the most junior staff person—receives meaningful and directed training from the vendor. Delineate in the agreements how much time and resources the vendor will devote to training and follow-up questions. If you are switching from one system to another, make sure both systems are operational for a short period of time to ensure no data is lost or changed.

### Do schedule patients accordingly.

DURING THE INITIAL TRANSITION PHASE, it will take longer to enter the data from a patient visit. Leave ample time so physicians can accurately enter all data related to patient interactions. As the physician becomes more nimble with the system, there will be less down time between patients. Set realistic expectations accordingly for everyone to minimize angst and anger.

E-health care is here to stay. Getting there and staying technologically current in the most cost-efficient and least disruptive manner is a challenge and an opportunity to improve the performance and perception of the physicians and the medical practice as a whole. ●

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