

# SOUTHEAST REAL ESTATE BUSINESS®

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## FROM MALLS TO MEDICINE

Medical users are moving into traditional retail spaces as healthcare becomes more consumer-driven.

By Steve Kirkham of Holland & Knight

**H**ealthcare in retail centers — a trend known as “medtail” — is taking off, with an estimated 20 percent of leased medical space in retail buildings, up from 16 percent in 2010. Considering all the reasons behind this, the only surprise is that it took this long to take shape.

After all, retail centers, which are designed to attract customers to shop, offer a host of benefits: convenient locations, ample parking, easy access to transport routes and welcoming settings. In contrast, for decades a visit to the doctor often meant navigating a packed parking lot located in an out-of-the-way place, followed by a dark hallway with a crowded waiting room.

### Opportunities, challenges

Certain types of healthcare tenants are a good fit for retail spaces. Urgent care, for example, has become an anchor for many shopping centers as such clinics become the regular “doctor’s office” for more and more Americans. Retail space also work well for dental and orthodontic chains, whose needs line up with the size of the typical “B-space” storefront bay. Dermatology practices and other skincare users is often done in conjunction with cosmetic and other “rejuvenation” uses whose providers already have storefront retail space.

However, leasing to a healthcare provider involves certain hurdles compared to a traditional retail lease. Many governance documents and reciprocal easement agreements (REAs), restrict healthcare, doctor’s offices or medical uses as a whole — especially for shopping centers constructed before the 2000s. That’s in part because traditionally, sick people weren’t seen as having synergistic effects for shopping centers, and healthcare was generally a use to be avoided.

While this view has largely shifted, many shopping centers still have healthcare restrictions in their gov-

ernance documents. It is important to verify no such restrictions are buried in a center’s use provisions — especially if this is not the first use of the space.

### Build-outs, parking

Healthcare build-outs differ significantly from typical retail spaces and are often more expensive. Healthcare space typically requires numerous small exam or treatment rooms, increasing the need for demising walls, as well as dedicated electrical and plumbing for each space. Post move-out demolition is also more costly for healthcare space, since all specialized build-outs must be removed.

Many healthcare users want special parking allocations. Urgent care users, for instance, typically prefer several dedicated spots near the front of the store, as do physical therapy tenants, which need close proximity due to their patients’ conditions. To be sure, designated spaces in retail centers have become increasingly common since the pandemic, with restaurants often demanding several spaces close to the door for customers picking up “to-go” orders. However, patients tend to be in these designated spaces for longer than those restaurants, so healthcare users typically request five or more exclusive parking spaces rather than the standard three reserved spaces for restaurants.

Healthcare users can also present unique issues that landlords may not encounter from typical retail tenants. For example, imaging centers with MRI machines need special shielding built into the space to prevent unwanted interference.

One imaging company that Hol-



**Steve Kirkham**  
Holland & Knight

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land & Knight worked with was located next to a branch bank with a drive-thru teller lane. As cars passed by the exterior wall on the other side of the MRI room, the metal in the vehicles negatively affected the MRIs. Changes in design didn’t help, and ultimately the bank had to re-route its drive-thru lane.

### Considerations for landlords

Healthcare users often have special disposal needs. Many will require a separate trash receptacle for biomedical waste, either inside or outside of their space, which must be kept separate from general waste. This should be considered when developing a common area maintenance (or CAM) model for such users; alternatively, the user could pay for regular removal of biomedical waste on their own.

Other healthcare users have more complex environmental challenges. For example, dialysis clinics use hazardous and corrosive chemicals, which must be carefully monitored. Yet there are thousands of dialysis clinics in retail settings, so these issues are certainly surmountable.

Imaging centers also generate hazardous waste, including heavy metals and radioactive materials. Retail center owners of centers should be aware of environmental concerns stemming from certain healthcare uses.

Landlords should also be aware of the special regulatory overlay affecting healthcare tenants. First, the Healthcare Insurance Portability and Accountability Act of 1996 (HIPAA) prohibits free access to medical records — which limits the

landlord’s inspection rights with regard to areas where patient records, called Sensitive Personal Records, are maintained.

Additionally, most healthcare providers are governed by laws intended to prevent “pay-to-play” schemes and kickbacks. In real estate, those rules come into play when a physician or family of a physician is involved in the landlord side of a deal, if the physician is also part of the tenant healthcare user. In such cases, rent must be at a clearly defined fair market value amount.

Healthcare users often require landlords to certify that no principal has a financial interest in the tenant’s healthcare business. This may seem like an odd request to retail landlords without healthcare tenant experience and can lead to questions as to the purpose of the certification. Typically, there is no overlap in ownership, but the answer can also be surprising — there are lots of doctors who like to invest in real estate.

Those complexities notwithstanding, medtail only continues to gain steam. As healthcare becomes more consumer-driven, retail centers are evolving to meet demand, with developers building designing spaces with built-in medical uses and attracting patients who double as shoppers.

With wellness now seen as a luxury, medtail is no longer emerging — it’s mainstream.

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