



## Pre-planning before opening can lower liability risks

**Q:** *I'm a general surgeon and am currently an employee of a multi-physician group. However, I will be opening my own practice within the next six months with another partner. What are the risk management issues I should address before opening the doors?*

**A:** Opening a new medical practice poses many new financial opportunities and challenges. The first step is for you and your partner to properly set up the corporate structure of your new practice so you can maximize asset protection and minimize taxation. It is critical that you seek specialized legal counsel from both an attorney and a financial advisor experienced in health-care asset protection and business issues.

It is recommend that clients opening new practices investigate the potential benefits of having separate entities for the practice and any practice assets, such as an office condo or high-end medical equipment.

You should also have an experienced health-care attorney ensure that your new practice gets off on the right foot with regard to regulatory issues, as this area can pose significant liability risks. Health-care regulatory laws and regulations are constantly chang-

ing, and your attorney should continue to make you aware of these changes so that your practice never finds itself out of compliance or facing a government investigation.

In addition to properly planning the corporate structure of the practice, you and your partner should implement an accounts receivable strategy and a practice succession plan, which will ensure that your new practice is protected, both from potential creditors and in the event that one of the partners passes away, retires or otherwise becomes disabled.

You should also work with an insurance professional knowledgeable about the aforementioned asset preservation strategies, so that you can obtain property/casualty and medical malpractice coverages that dovetail with your asset preservation planning. In today's medical malpractice environment, it is critical that new practices efficiently utilize their insurance dollars and couple this risk management tool with other prudent risk management techniques, such as proper training of staff, the implementation of practice protocols and of a risk-management plan that will be followed in the event of a potential liability.

One example is the utilization of

the Florida Medical Association's patient waiver form, which limits non-economic damages for medical malpractice to \$250,000. While this strategy has not been tested in the courts, it may further insulate you from potential liabilities.

Finally, you should work with your attorney, accountant and financial advisor to engage in proactive planning to preserve and protect your personal assets. This planning should be integrated with your financial and estate plan and can include the formation of limited partnerships or limited liability companies, the utilization of Florida statutory exemptions in asset planning, the re-titling of certain assets and the use of trusts and other structures to more efficiently hold and dispose of assets.

Regardless of whether or not you and your new partner carry medical malpractice insurance, a sound personal asset preservation plan will help deter potential medical malpractice lawsuits and will ensure that you and your family are secure in your financial futures. ♦

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