

Shapiro, Lifschitz & Schram

# Legal Medical Newsletter

**Experience. Passion. Solutions.**



Washington, DC Metropolitan Area – Second Quarter 2010

## **Is it important to form an entity for my medical practice?**

Absolutely! A physician should not practice medicine or provide medical services or dispense medical advice without first forming a legal entity to operate the medical practice. In addition to medical malpractice insurance, the formation of a legal entity is an important tool that could protect you, your practice and its assets from potential medical malpractice liability. If you practice with other physicians and you have not formed a legal entity under which to operate your practice, then you could be liable personally for medical malpractice claims asserted against other physicians. If you are a solo practitioner and you have not formed a legal entity, you could also be personally liable for certain liabilities of your practice.

There are many entity options available to physicians depending on the jurisdiction in which you practice. Each entity has its pros and cons and will afford you a certain level of legal protection that you will not otherwise have.

## **Do I need a partnership or similar agreement?**

Absolutely! A partnership agreement, shareholders' agreement or operating agreement (depending on the type of entity you choose) is the legal document that governs the management and operation of your medical practice. If a practice does not have such an agreement and an issue arises that the principals are unable to resolve on their own, it could lead to costly and unnecessary disputes and even litigation. These agreements address the following issues (among many others) in order to avoid these very uncomfortable and potentially costly scenarios:

- **Who is responsible for managing the day to day operations of your practice?**
- **What decision making authority does that person have without the consent of the other principals?**
- **What types of decisions require consent of the other physicians? What type of consent (majority, super majority, etc.) is required for those decisions?**
- **What happens in the event of an impasse?**
- **Are physicians bound by covenants not to compete if they leave the practice? If so, what are the specific terms and conditions for those covenants?**
- **What are the requirements for dismissing a physician from the practice?**
- **Are physicians entitled to a buy out upon retirement, at death or due to a disability?**
- **How are practice profits allocated and distributed among the physicians?**
- **What are physicians' responsibilities for funding operating shortfalls?**
- **What are the requirements for amending the partnership or similar agreement?**
- **What fringe benefits are the physicians entitled to receive and bill to the practice?**

As you can see, if there is an agreement in place that clearly outlines how your practice is operated and managed, this can lead to a successful and thriving medical practice. Even if you are a solo practitioner it is important to have a basic agreement in place that outlines how your practice is operated.

If you would like to discuss any of these issues, newsletter, or any other legal matter, please contact **Reed Sexter, Esquire** at **202-689-1900**.

This is the first of what we hope will be a quarterly newsletter providing useful legal tips and information to the medical community.

**Shapiro Lifschitz & Schram** is a full service law firm located in Washington, DC whose attorneys collectively have more than 65 years of experience representing and advising medical practices for all of their legal needs, including entity structure, partnership agreements, leasing, employment agreements, consulting agreements, mergers with other medical practices and the purchase and sale of medical practices.

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