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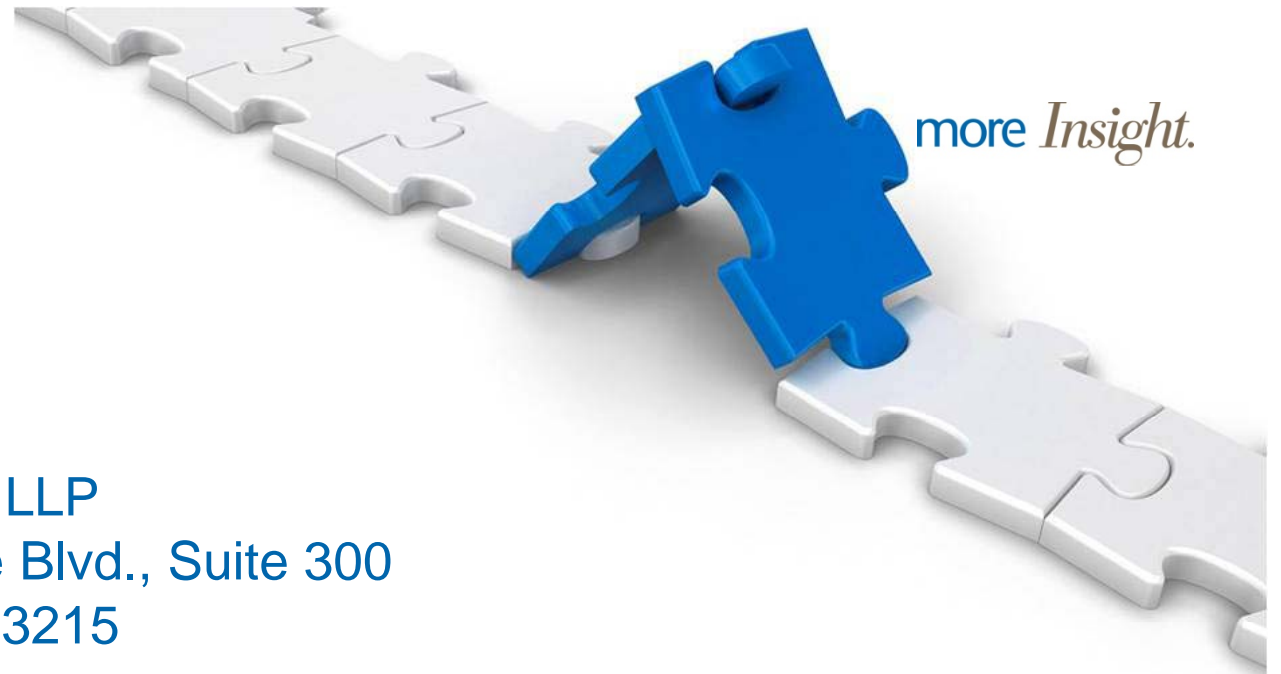
# Practical Considerations When Leaving Residency

Clinton Memorial Hospital

December 20, 2012

**Dinsmôre**

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## Why is any of this important?

- ▶ 4 years of undergrad
- ▶ 4 years of med school
- ▶ 3 years of residency
- ▶ 11 total years of post-secondary education, likely tens or hundreds of thousands of dollars of loans
- ▶ You've paid your dues; common practical knowledge is essential

# Brief Overview

- ▶ Ways to practice medicine and advantages/disadvantages
- ▶ Malpractice
- ▶ Insurance
- ▶ Legal Concerns
- ▶ Billing/Collections
- ▶ Other practical considerations
- ▶ Employment agreements

# WAYS TO PRACTICE

- A. Employee
- B. Sole Proprietor
- C. Partnership
- D. Corporate Formation

# ADVANTAGES AND DISADVANTAGES

## A. Employee

### 1. Advantages

- a. No capital investment
- b. Established, existing clients
- c. Steady, regular, predictable income
- d. Employee benefits

# ADVANTAGES AND DISADVANTAGES

## A. Employee

### 1. Advantages (con't)

- e. Fewer risks for liability
- f. Education from experienced physicians
- g. No management or administrative duties

# ADVANTAGES AND DISADVANTAGES

## A. Employee

### 2. Disadvantages

- a. No share in profits
- b. Less potential for large income
- c. Little or no control
- d. Less job security
- e. Fewer opportunities to take advantage of tax benefits



# ADVANTAGES AND DISADVANTAGES

## B. Sole Proprietor or Partnership

### 1. Advantages

- a. Control
- b. Participation in profits
- c. More potential for large income
- d. More expenses than employee, but fewer expenses than corporation

# ADVANTAGES AND DISADVANTAGES

## B. Sole Proprietor or Partnership

### 1. Advantages (con't)

- e. Not required to maintain indicia of corporate existence
- f. No double taxation
- g. More opportunity to take advantage of tax benefits
- h. Job security

# ADVANTAGES AND DISADVANTAGES

## B. Sole Proprietor or Partnership

### 2. Disadvantages

- a. Risk
- b. More risks for liability
- c. No corporate insulation from liability
- d. Capital investment

# ADVANTAGES AND DISADVANTAGES

## B. Sole Proprietor or Partnership

### 2. Disadvantages (con't)

- e. No established, existing clientele
- f. SP – no additional training from experienced physicians
- g. Management and administrative duties
- h. Less mobility

# ADVANTAGES AND DISADVANTAGES

## C. Corporation

### 1. Advantages

- a. Control
- b. Participation in profits
- c. More potential for large income
- d. More opportunities to take advantage of tax benefits
- e. Job security

# ADVANTAGES AND DISADVANTAGES

## C. Corporation

### 2. Disadvantages

- a. Risk
- b. More risks for liability
- c. Capital investment
- d. No established, existing clientele
- e. Maybe no further education from experienced physicians

# ADVANTAGES AND DISADVANTAGES

## C. Corporation

### 2. Disadvantages (con't)

- f. Management and administrative duties
- g. Required to maintain indicia of corporate existence
- h. Double taxation (C vs. S)
- i. Less mobility

# MALPRACTICE

## A. Malpractice

1. How a malpractice action develops after underlying medical event
  - a. Service of complaint
  - b. Call malpractice insurance company
  - c. Retention of counsel
  - d. Answer



# MALPRACTICE

## A. Malpractice

1. How a malpractice action develops (con't)
  - e. Discovery
  - f. Settlement or trial
  - g. Judgment

# MALPRACTICE

## A. Malpractice

### 2. How to avoid committing malpractice

- a. Be competent
- b. Do not undertake any treatment you are not competent to undertake
- c. Stay current
- d. Seek consultations
- e. Do not practice by routine

# MALPRACTICE

## A. Malpractice

2. How to avoid committing malpractice (con't)
  - f. Do not become obsessed with money, prestige, or other ventures
  - g. Associate with a good hospital and good physicians
  - h. Keep your medical records complete and up-to-date
  - i. Follow hospital and practice policies and procedures

# MALPRACTICE

## A. Malpractice

3. How to avoid being sued for malpractice
  - a. Appearance and demeanor
  - b. Courtesy and friendliness
  - c. Compassion
  - d. Attention to patients and family

# MALPRACTICE

## A. Malpractice

3. How to avoid being sued for malpractice (con't)
  - e. Communication
  - f. Reputation
  - g. Written informed consent
  - h. If you make a mistake in treatment or if treatment is unsuccessful, correct immediately

# MALPRACTICE

## A. Malpractice

### 4. Apologize?

- a. Peer Review Privilege:
  - i. ORC 2305.252
  - ii. Peer Review Committee
  - iii. Proceedings, records, attending individuals, members, testifying individual

# MALPRACTICE

## A. Malpractice

### 4. Apologize?

- b. An Example: Smith v. Cleveland Clinic, 2011 Ohio 6648 (8<sup>th</sup> Ohio Appellate District 2011)
- c. The Apology Statute, ORC 2317.43

# INSURANCE

## B. Insurance

1. Malpractice
2. Health
3. Life
4. Disability



# INSURANCE

## B. Insurance (con't)

5. Homeowners or renters (fire, property, liability)
6. Umbrella

# LEGAL CONCERNS

## C. Attorneys

1. Employee
  - a. Employment contract
2. Sole Proprietorship
  - a. Lease of office
  - b. Lease of equipment
  - c. Tax planning
  - d. Pensions

# LEGAL CONCERNS

## C. Attorneys (con't)

### 3. Partnership

- a. Partnership agreement
- b. Lease of office
- c. Lease of equipment
- d. Tax planning
- e. Pensions
- f. Employee Benefits

# LEGAL CONCERNS

## C. Attorneys (con't)

### 4. Corporation

- a. Articles of Incorporation
- b. Bylaws
- c. Minutes
- d. Employment contracts
- e. Shareholder Agreement
- f. Stock Redemption Agreement
- g. Shareholder Employment Agreement

# LEGAL CONCERNS

## C. Attorneys

4. Corporation (con't)
  - h. Lease of office
  - i. Lease of equipment
  - j. Tax planning
  - k. Pensions
  - l. Employee Benefit Plans

# LEGAL CONCERNS

## C. Attorneys (con't)

5. Real Estate

6. Wills

7. Cost

# BILLING AND COLLECTIONS

## D. Billing and collection

1. Self pay
2. Insurance
3. Medicare
4. Medicaid

# OTHER PRACTICAL CONSIDERATIONS

- E. Financing/Credit
- F. License to Practice Medicine
- G. Hospital Privileges



# PRACTICAL CONSIDERATION

## I. Payroll

1. Federal income tax
2. State income tax
3. Social Security withholding
4. Workers' compensation
5. Unemployment compensation

# OTHER PRACTICAL CONSIDERATIONS

J. Bookkeeping and business records

K. Accountants

1. Accounting services
2. Bookkeeping
3. Payroll
4. Tax filings
5. Other Services

# PHYSICIAN EMPLOYMENT AGREEMENT

A. Parties

B. Services to be provided – professional standards

1. Incentives
2. Performance standards
3. Billing review
4. Marketing done in coordination with group

# PHYSICIAN EMPLOYMENT AGREEMENT

## C. Compensation

1. Guaranteed
2. Performance Based
3. Sign-on Bonus
4. Relocation Reimbursement
5. Student Loan Repayment Assistance

# PHYSICIAN EMPLOYMENT AGREEMENT

## D. Term of employment

1. Evergreen
2. Termination without cause or for cause

## E. Buy into the practice

## F. Non-competition

## G. Role in staff evaluation and supervision

# PHYSICIAN EMPLOYMENT AGREEMENT

- H. Malpractice coverage – tail coverage
- I. CME
- J. Vacation
- L. Proprietary information – patient lists and referral sources
- M. Dispute resolution
- N. Employee benefits

# Questions or Comments?

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