

Written Contracts Spell Out Your Rights and Responsibilities

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For doctors coming out of residency programs, as well as those looking for a change in their working situation, several employment opportunities may be presented. These doctors have to decide which is best-suited for their needs. One of the options open to them is to join forces with other health professionals in a group practice situation.

Once the preliminaries of entering the practice group are discussed, the senior doctor usually presents an employment agreement for your signature. If a written agreement is not presented, should you ask for one? There are advantages and disadvantages to this. The single greatest advantage of having an agreement is that, if drafted properly, it should clearly outline your rights. I have seen too many situations where sick pay is discussed once someone has been out sick for several weeks or pregnancy leave is discussed during the course of the pregnancy. A properly drafted employment agreement outlines where you stand.

Restrictive covenants

However, the problem with having a written understanding is that it often contains restrictive covenants that provide that if things do not work out (even if you are fired), you are restricted from practicing in the same area as your employer. Since restrictive covenants are generally binding only when they are in writing, there is certainly a strong argument for not having a written agreement.

Most written agreements have provisions allowing the senior doctor to fire you at will, even just before you are to become a partner in a practice. Although the agreement appears to be drafted for a 1-year employment period, if you can be fired at any time with only 2 or 3 months' notice, you effectively have a 2- or 3-month agreement. During negotiations, you should argue for a long notification period so that you have adequate time to secure employment elsewhere.

When reviewing compensation arrangements, notice that many agreements provide for incentive or bonus arrangements. Although they may look at-

tractive, watch out. If they are based on production, be sure to recognize who will be deciding which cases you receive. Often, newer doctors are surprised when they receive less lucrative work, which can result in a smaller bonus.

When comparing offers, do not overlook the various fringe benefits; be sure to review everything in the aggregate and not simply focus upon salary. Some valuable tax-free fringe benefits are often ignored. One of the most obvious is medical malpractice insurance. Having enough insurance is important, but having the right type of insurance is equally important. If you have the claims-made type, it is important that your employment agreement specify that it is the employer's responsibility to pay for any tail premium due, no matter why your employment terminates. Often, employers try to saddle you with this responsibility, particularly if you voluntarily terminate your employment. This expense may run into tens of thousands of dollars.

Your employment agreement should also specify vacation time, continuing medical education time, and your weekly schedule. Once you have started working, it is often difficult to negotiate, since your alternatives are limited if you are not satisfied. Although you might assume that you would have equal call responsibilities with the other doctors in the practice, as a newer doctor you may be given additional call responsibilities during your initial years. This should be discussed early in your negotiations.

Understanding the arrangement

Most employment agreements outline only the first year or two of your arrangement. It is important to understand how long it takes to become a partner of the practice. It is a common assumption that you become a partner after a few years of employment. But new doctors are often surprised when they must pay large sums of money to buy into the practice. This buy-in is based not only upon hard assets and accounts receivable but also the practice's "good will" value.

When evaluating different opportunities, it is important to appreciate adequately the atmosphere of the office you are considering. Some senior doctors run their practices as autocracies and

others are more democratic. You must decide how well your style will fit in. In addition, many senior doctors require you to see a specific number of patients per hour, perhaps at a quicker pace than you prefer. This should also be discussed prior to accepting employment.

Once you understand what is being offered, how do you negotiate? Should an attorney negotiate on your behalf? I generally suggest that most of the initial discussions be handled on the interdoctor level. This is less threatening and more natural to the senior doctor. Once you have reached an oral understanding, followed by a written contract, the contract should be reviewed by an attorney, even if it is written in "plain English." You may understand all of the terms but not recognize the absence of key provisions.

Most important, you want an agreement to be comprehensive and to protect you so that your rights are clear and not open to interpretation later. Although a good agreement cannot assure that every relationship will work, it certainly provides guidance and the necessary support should things not work out. □

Winter Tip With Year-Round Benefits

If you live and work in an area of the country that is prone to wintry conditions, you'll appreciate this "extra" precautionary system. It can be adapted by anyone who has a professional practice.

"The part of the northeast where we practice is subject to winter storms and icy roads," writes Dr Murray Schwartz, an Upper Nyack, NY, dentist. "Years ago, I developed a system of taking home a copy of the following day's patient list. The ones we post around the office show patients' names and procedures that are to be performed that day. But the one I took home included each patient's phone number. If the driving conditions were bad enough the next day to prevent my getting into the office on time, I was able to call the patients and arrange new appointments."

Adds Dr Schwartz: "I soon realized that this system, used now year-round, gave us a complete and up-to-date list of all our patients. My partner or I save these sheets at home for a year or more. If a catastrophe were to demolish our office, reconstruction of our patient lists would be possible from the accumulated data sheets."