The Physician's Money Manual:

Asset Protection Myths

DAKTORI®
FINANCIAL FELLOWSHIP

Every day, we speak to Doctors about how they can achieve the protections they desire in order to maintain their wealth. In these conversations, we hear many common myths. Perhaps you too hold some of these false beliefs. Five common myths are:

- "My assets are owned jointly with my spouse, so I'm okay."
- "My assets are owned by my spouse, so I'm okay."
- "I am insured, so I'm covered."
- "I can just give assets away if I get into trouble".
- "My Living Trust (or Family Trust) provides asset protection."

These myths are dangerous because they lull the individual or family into a false sense of financial security. This, in turn, may prevent the Doctor from taking necessary steps to truly protect the assets. Let's examine each of these common myths and dispel them.

Myth #1: "My Assets Are Owned Jointly with My Spouse, So I'm Okay."

Most Doctors hold their homes and other property in joint ownership. Unfortunately, this ownership structure provides little asset protection in both community and non-community property states.

In community property states community assets will be exposed to community debts regardless of title. Community debts include any debt that arises during marriage as the result of an act that helped the community. Certainly, any claims resulting from a medical practice, income-producing asset (rental real estate) or auto accident would be included.

Even in non-community property states, joint property is typically at least 50% vulnerable to the claims against either spouse. Therefore, in most states, at least 50% of such property will be vulnerable- and all the other problems associated with joint property still exist in non-community property states.

Myth #2: "My Assets Are Owned by My Spouse, So I'm Okay."

One of the most common misconceptions about asset protection is that assets in your spouse's name cannot be touched. We can't tell you how many Doctors have come to us with their assets in the name of one spouse and assumed that those assets were protected from claims against the other. This often happens when one spouse has significant exposure as a Doctor and one does not.

Unfortunately, simply transferring the title of an asset to the non-vulnerable spouse does not protect the asset. The creditor is often able to seize

assets owned by the spouse of the debtor by proving that the income or funds of the debtor were used to purchase the asset. To determine if the asset is reversible, three questions can be asked:

- Whose income was used to purchase the asset?
- Has the vulnerable spouse used the asset at any time?
- Does this spouse have any control over the asset?

If the answer is "yes" to any of these questions, then the creditor can be paid from these assets.

Myth #3: "I Am Insured, so I'm Covered."

While we strongly advocate insurance as a first line of defense, an insurance policy is 50 pages long for a reason. Within those numerous pages there are a variety of exclusions and limitations that most people never take the time to read, let alone understand. Even if you do have insurance and the policy does cover the risk in question, there are still risks of underinsurance, strict liability, and bankruptcy of the insurance company. In any of these cases, you could be left with the sole financial responsibility for the loss. Lastly, with losses that fall within the plan's coverage limits, you still may see your future premiums go up significantly.

Myth #4: "I Can Just Give Assets Away If I Get Into Trouble."

Another common misconception of asset protection is that you can simply give away or transfer your assets if your ever get sued. If this were the case, you could just hide your assets when necessary. You wouldn't need an asset protections specialist. You would only need a shovel and some good map-making skills so you could find your buried treasure later.

In recognizing the potential for people to attempt to give away their assets if they get into trouble, there are laws prohibiting fraudulent transfers (or fraudulent (conveyances). In a nutshell, if you make an asset transfer after an incident takes place (whether you knew about the pending lawsuit or not), the judge has the right to rule the transfer fraudulent conveyance and order the asset to be returned to the transferor, thereby subjecting the assets to the claims of the creditor.

If you have been sued or suspect that you may be sued, there are other ways you can protect yourself. Typically, reactive last minute strategies are not very effective and may be much more expensive than the highly successful strategies that can be implemented when there are no creditors lurking.

Myth #5: “My Living Trust (Or Family Trust) Provides Asset Protection.”

There have been countless instances where clients have come to us with the impression that their revocable Living Trust provides asset protection. While you are alive, this is simply not true. Revocable Trust assets are fully attachable by any creditor as the trust is a grantor trust. An Irrevocable Trust provides varying levels of asset protection for you and your heirs in addition to the estate planning they are primarily designed to achieve. A living Trust may provide some asset protection, but that protection does not exist until one spouse dies.

The Diagnosis

Many doctors develop false sense of security as a result of dangerous asset protection myths. Owning assets jointly with a spouse or in your living trust will not protect them. Titling all of your assets in your spouse’s name does not work. Relying on your ability to move assets when a problem arises is a terrible plan that can easily be overturned and may result in disastrous consequences. Relying on insurance to protect you will leave too many risks to your financial well-being.

Do not be concerned or alarmed if you believed any of these asset protection myths. Do not be disappointed if your perceived protection has just been proved inadequate. With the myths dispelled, you cannot follow the proper steps to implement the right type of asset protection plan for you.

About Daktori:

Our Daktori team understands the unique challenges that physicians face. Through our Financial Fellowship designed specifically for physicians, we provide consultative advice for physicians who want to *protect* and *grow* their *wealth*. Our goal is to help you learn from the most successful practices in your specialty. Our multi-disciplinary approach can help you make more money, keep more of what you make, maximize tax efficiencies and engineer a successful exit strategy from medicine.

One of our Daktori clients sold his dermatology practice for $31 million. Contact us to learn how our team of experts can show you how to secure a superior financial future for you and your practice.

To Learn More Contact

Email Us: info@daktori.com
Call Us: 1-866-325-8674; 1-866-DAKTORI
Visit Our Website: www.daktori.com