



# Avoiding the Pitfalls



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## SPOUSAL MAINTENANCE OR ALIMONY

Most physicians earn substantial incomes and live a comfortable, if not affluent, lifestyle. Often, their spouse does not work outside the home, in part to support the physician spouse so that he or she can focus on professional responsibilities. Under this scenario, the stay-at-home spouse will invariably be seeking spousal maintenance as part of the divorce settlement. In determining the amount of spousal maintenance, the court looks at several factors, including the length of the marriage, the income of the physician, whether the stay-at-home spouse should return to the paid work force, and if so, what income that spouse could earn. If there is sufficient income, the court will require the physician to contribute to the support of the stay-at-home spouse. For long-term marriages, this often means permanent spousal maintenance, i.e. until death or remarriage.

## CUSTODY AND PARENTING TIME

Most physicians work long hours and are subject to call or unpredictable surgery schedules. Their profession can be so

demanding that they have little energy left over for parenting responsibilities. During the marriage, this slack was taken up by the stay-at-home parent, and compromises were made within the family. After a divorce, however, physicians want to be an active part of their children's lives. It is not uncommon for them to seek joint custody, requiring them to care for their children up to 50 percent of the time. This usually requires changes in professional schedules that in turn cause a reduction in income. Physicians are often asked to justify the time they spent away from the family in pursuit of their careers and why they should have future parenting time in excess of what they had during the marriage. It is not uncommon to see physicians experience guilt and regret when they realize that their devotion to their career has caused their relationship with their children to take a back seat.

## PRACTICE VALUATION

In Minnesota, a medical practice established during a marriage is considered a marital asset and is subject to valuation

# in a Physician's Divorce



DIVORCE IS A PAINFUL AND EMOTIONAL PROCESS FOR ANYONE. WHETHER IT COMES AS A SURPRISE OR IS THE END RESULT OF YEARS OF MARITAL UNHAPPINESS, A DIVORCE CAN DISRUPT NOT ONLY YOUR PERSONAL LIFE BUT YOUR PROFESSIONAL LIFE AS WELL. FOR THE BUSY PHYSICIAN, THE MECHANICS OF THE DIVORCE PROCESS CAN WREAK HAVOC ON YOUR PRACTICE. SUDDENLY, MANY IMPORTANT DECISIONS HAVE TO BE MADE, AND MEETINGS WITH LAWYERS, MEDIATORS AND THE COURT MUST BE FIT INTO AN ALREADY DEMANDING SCHEDULE. NONETHELESS, EVERYONE EXPECTS YOU TO CONTINUE TO BE THE CALM, ORGANIZED PHYSICIAN YOU HAVE ALWAYS BEEN. IF YOU FIND YOURSELF HEADING TOWARD A DIVORCE, THERE ARE SEVERAL KEY THINGS THAT YOU SHOULD BE AWARE OF.

and division. Valuation experts are retained in order to provide the court with the current fair market value of the practice, and that value will be placed in the asset column of the physician, with the other spouse receiving assets of equal value. Although many physicians who practice within a group have detailed buy-sell agreements that value their interests in their medical practices, these agreements are not dispositive when valuing the practice for divorce purposes. The valuation will take into consideration the practice's receivables and the value of the hard assets. Goodwill is a common bone of contention. Does the practice have a goodwill value apart from the physician? Will that goodwill be valued?

In addition to practice values, physicians will often have an ownership interest in the building that houses the medical practice. If that is the case, the building will have to be appraised and that value will also be placed in the asset column of the physician. Physicians are sometimes shocked to learn that they leave the divorce with their illiquid interest in their practice and the commercial building, while their spouse walks away with the house, the investment accounts

and the lion's share of the retirement assets. This, combined with the obligation to pay permanent spousal maintenance, can be overwhelming.

One of the best ways to avoid issues regarding spousal maintenance and practice value is to have a prenuptial agreement in place. A fair prenuptial agreement can exclude practice values or consideration of goodwill and address issues impacting the award of spousal maintenance. If you don't have a prenuptial agreement, however, your divorce can still be managed in a dignified manner. Full disclosure of assets and compliance with court-imposed deadlines can help your case move forward smoothly. Using an attorney whose primary focus is divorce and valuing closely held businesses will ensure that you will get the best possible advice and direction. Mediation with a mediator experienced in family law will also make the process less expensive, both financially and emotionally. By settling your case in mediation, you will avoid the high cost and uncertainty of litigation, thereby allowing you and your family to move forward more positively and in peace. ■