

Basics on negotiating your contract for private practice

The most important piece of advice I can give you, is to have a positive attitude during this process. Although you may have certain "deal breakers" in mind and may find the process frustrating, these are people you may work with in the future. If you don't choose to work along side them in the same practice, they maybe in your community or even your referral base in the future. Keep this in mind when you are negotiating.

The second most important piece of advice I can give is to hire a lawyer who is knowledgeable with medical contracts. There are many lawyers out there, however medical law is very in depth and it can vary from state to state. They may arguably be the most valuable resource, because after all, negotiating your first contract has such strong legal ramifications. (So don't just ask your family friend who happens to be an environmental lawyer to review your contract. They may offer to help you, but it is not enough unless they feel VERY comfortable with the medical law in your state). You can find a lawyer usually for a lower price as you are finishing residency or fellowship. My lawyer charged me half the price per hour than he normally does because I was just out of Fellowship. Many would extend this courtesy, because they want your business in the future. For a few hundred dollars, you may be saving yourself from many headaches, untoward and costly legal problems in the future.

Ultimately, clarifying everyone's expectations at this time will help reduce frustration in the long run. The written agreement should spell out your responsibilities as well as your benefits, compensation, vacation, et cetera. If a subject matter is not included in there, you should be aware, and raise the question. It may not be included not as an oversight, but rather a topic of non-discussion for them. The contract is legal binding document that will help you protect your rights in the future, as long as due diligence done ahead of time to make that protection.

Components of your contract should include:

Terms of your employment: This should include starting date. Also whether or not you're going to be an employee, or have the ability to buy in to the practice. Be wary of one year agreements. You should consider a 2-4 year agreement. You should also include how termination of your employment would occur. As a safeguard, 60 to 90 days maybe more reasonable than a 30 day termination. This way, each party would have more time to figure out the next course of action. As advice, you should seek out the circumstances of why the previous employee left or was terminated if you are an employee of a larger practice.

Compensation should be spelled out: Any incentives and bonuses should also be spelled out based on your hard work for the practice.

If you are joining an established practice, you need to also understand how patients will be assigned to you, if you have access to production data, billing and how often you will see "the books." Also, you should know how often you would be receiving your bonuses whether it be monthly, quarterly, or yearly. If your group accepts managed-care plans, you should also think about how you would accept incentives and bonuses based off of your working production, even if you have a capitated income. Talking with your lawyer or your friends may help reveal how other people have structured their incentives package. For example, if you will be doing some cataract surgery, do you get a portion of the profit if you choose a premium lens? Or since new patients are payable at a higher rate and add value to the practice, do you get credit on how many new patients your skills draw into the practice? Your employers may assume that your new patients referred into the practice are simply

because of the established referral patterns and not necessarily for your skills as a Neuro-Ophthalmologist. Make sure you at least think about your incentive structure.

In addition, if you do legal depositions or receive speaker honorariums, how would this compensation also be considered? You may be surprised at how often a private practice Neuro-ophthalmologist may be involved in these matters, etc.

Business expenses should also be discussed including professional liability insurance, society and professional dues, travel expenses, professional resources such as books and journals, and hospital staff expenses. Any CME time and cost should also be spelled out. Cell phones, pagers, or other electronic devices should also be spelled out. Consider also all items for you to practice such as your staff equipment and computer for you to get your work done. You should also have an idea how to seek reimbursement if it is paid for by you and recovered later, or if the practice should pay for it upfront. There may be a fair amount of meeting and greeting in the community to establish your referral base. Taking out your potential referral base may be encouraged, and considered a business expense. Note if there are any limits to your expenses.

Malpractice insurance should also be discussed. You should speak with a lawyer regarding what type of malpractice insurance you should look into and who ends up paying the tail expense if you leave that practice. For ophthalmology (and from my limited knowledge), OMIC does not charge for tail insurance if you leave a practice and go to the next, using OMIC again.

You may also get fringe benefits including group term life insurance, health and major medical insurance, moving and relocation expenses, and retirement plans. Not all practices offer these fringe benefits and it is important to consider your benefits package when negotiating your salary. Not having these fringe benefits can be a substantial deficit when comparing your salary to national averages and your colleagues.

Vacation and leave of absence is an important aspect. It is important to know if continuing medical education courses are included in your weeks of vacation. In addition, whether not taking your boards will be included in your vacation or given to you in addition. Typically, you will get 3 to 4 weeks of vacation and additional time to address professional credits that you will need for board certification in the future, such as society meetings.

In addition, you may also be eligible for sick pay. This is for disability due to illness and pregnancy. For short-term disability, your state may have state disability insurance coverage. There are federal laws that also may allow for longer disability but without pay, for family and other medical considerations under FMLA. Pregnancy is also considered a sick leave unless your practice has a separate maternity leave policy. It is important to discuss this with the lawyer, as each state may have differing disability laws to protect you. In California, if you pay into the state disability, California disability will pay you up to \$1011 a week (as of 2012). For pregnancy leave, this is limited to up to 4 weeks before your due date, and is for 6 weeks for a normal vaginal delivery. For cesarean sections, you get 8 weeks. After that, you may apply for FMLA which is unpaid for 6 more weeks. If you intend to take off more than 12-14 weeks, the law may not protect you, so discuss this with your lawyer.

Restrictive covenants are also important to discuss. Some states do not recognize restrictive covenants. However, there are non-solicitation covenants that may be written into your contract. It is common for

practices to consider their pool of patients as a proprietary lists and try to restrict you from this referral base even if you leave the practice.

If co-ownership is offered, there will be an extensive part of your contract that will discuss how you would be evaluated as a co-owner and then also to value the practice. Some people use the net asset value where appraising all the tangible assets, and variable ways to value the intangible assets (such as "goodwill"). However, the more common way of assessing value for practice is excess earnings value. This is how much the practice generates an excess of its expenses. Discuss in excruciating detail with the lawyer if you are offered co-ownership and how these details should be written into your contract. This is where your familiarity and regular perusal of "the books" is of utmost value.

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