

## By Physicians. For Physicians.

*(Selling Practices to Hospitals - Boon or Burden, continued from outside flap)*

for hospitals and physicians to join forces again. However, today hospitals are more price conscious and physician compensation agreements are now structured with more production incentives and less salary guarantees.

### Thinking of Selling?

The first step is to evaluate why you want to sell your practice: Is it due to financial hardship? Are there succession issues? Are you just "sick and tired" of practice management and reimbursement hassles? Most importantly, are you ready to be an employee in a large corporate culture? The potential for conflict with hospital management and rigid systems should be considered. Remember, *about the only thing that hospitals and physician practices have in common are patients.* Among other factors, physicians should consider:

- **Salary and Productivity Bonuses** – The days of large physician bonuses are gone. However, the percentage of guaranteed salary versus production bonuses is negotiable.
- **Higher Overhead** – Employee benefit costs are typically much higher for a hospital employee than for a physician employee. Also, many hospital-allocated support personnel and/or practice manager costs' are billed to the practice, further reducing profitability. Additionally, most hospitals insist on immediate changes to the practice's billing system, adding costs.
- **Medical Professional Liability Insurance** – Insist on individual physician coverage with a company you know and trust. This may be pivotal if a lawsuit arises pitting you against your hospital-owner. The person paying the premiums usually has some say in the decisions about his or her lawsuit. Also in a hospital, all physicians' medical professional liability insurance is lumped together and applied to overhead – making it possible that your rates could increase greatly.
- **Contracts: Be Cautious** – If a hospital presents you with a "canned" package and appears unwilling to negotiate, this is usually a red flag. Remember, the hospital management will never be nicer than when they are trying to woo you. Relations will not likely improve once you become part to the hospital's staff.

There are many other important factors to consider when selling your practice to a hospital. Prior to making such a significant decision, do your due diligence and thoroughly evaluate the pros and cons of the opportunity. Then get a second opinion from someone who specializes in partnerships such as these and be sure to seek legal advice before signing documents. **MAG Mutual's Strategic Partnership Advisor and Retention Associates** are poised to guide you through the process. For more information, call us at **800-282-4882**.

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## Risk Management Tips

### Be Prepared to Answer Questions

In his new book, *"I Need an Operation... Now What? A Patient's Guide to a Safe and Successful Outcome,"* Thomas R. Russell, MD, FACS, the Executive Director of the American College of Surgery, advises patients to ask 10 questions before having surgery:

1. Is this operation absolutely necessary and what could happen if I choose to forego it?
2. What are the likely long-term effects of this procedure?
3. Are you Board certified in the surgical procedure you'll be performing on me?
4. Do you perform this procedure on a regular basis?
5. Do you plan to do this procedure in a hospital or in your office?
6. How do other patients with health factors and surgical needs such as mine fare under your care?
7. What are the potential complications I could face and are you prepared to handle them?
8. What is the risk of infection?
9. Could I die?
10. What is my role as I recover from this procedure?

Dr. Russell says "Patients should know that they can improve their odds for a good outcome if they do their homework "up front." In this book he also lists helpful pre-and post-operative tips for patients..

These questions are important parts of the informed consent form and MAG Mutual's Risk Management Consultants recommend answering questions like these during the informed consent discussion. Research shows that informed patients make better decisions about their healthcare, have less anxiety, spend fewer days in the hospital, are more likely to "buy-in" with post operative care instructions and require few analgesics – prompting quicker recuperation.●

### When a Physician Retires

For most people, retirement invokes thoughts of extensive travel, enjoying leisure activities and spending time with friends and family. However, before heading off to cruise the world, physicians in particular, must put certain safeguards in place to ensure a smooth transition for patients and themselves.

MAG Mutual insureds are entitled to a free reporting endorsement upon their full and complete retirement from the practice of medicine.(tail coverage) if they have been insured with the company for at least the past five years and are at least 55 years of age. To receive the retirement benefit, notification of retirement must be sent to MAG Mutual in writing.

Retiring physicians who have not been insured with MAG Mutual for the last five years will receive a 20% credit toward the purchase of tail coverage for each year insured with the company. For example, if you have been insured with MAG Mutual:

- **5+ years = reporting endorsement is free of charge**
- **4 years = reduction of 80%**
- **3 years = reduction of 60%**
- **2 years = reduction of 40%**
- **1 year = reduction of 20%**

It is recommended that physicians notify their colleagues, employees and all active patients at least two months prior to closing the practice. This will allow enough time for employees to find other positions and patients will have time to get their records transferred to a new physician. It is important to retain all medical records and if a patient requests his/her medical records, send copies only.

A MAG Mutual Retention Associate can provide physicians detailed procedures that will make retirement worry-free.●



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**In Practice. In Life.****Protection from Computer-based Liabilities**

After the terrorist attacks of 9/11, the White House warned of the destructive and costly potential that hackers and computer viruses posed to businesses. It strongly recommended they seek appropriate coverage for commercial data and other computer-based assets.

Many of us have no clue that cyber liability issues ranging from privacy to viruses can be devastating for a medical practice. Everyday technologies such as the Internet and even prescription reminders could put your data at risk.

Cyber security liability results from a seemingly minor network security failure, allowing unfettered access to computer networks - opening your practice up to the theft of data.

Many practices keep patient credit card information on file, however, notification after a security breach can be expensive and time consuming. The law requires that every affected person be notified their information may have been compromised. Most practices believe they're covered under general liability insurance or standard crime policies. However, those products are not designed to cover cyber losses.

MAG Mutual's Cyber Liability Insurance covers threats from viruses; disruption of web sites; unauthorized use of computer networks; extortion; crisis management and liability against lawsuits.

To learn more about Cyber Liability Insurance offered through MAG Mutual Insurance Agency, call **1-800-586-6891**.

\*MAG Mutual Insurance Company does not provide coverage for these products. Insurance is provided through nationally recognized insurance companies.

**HIPAA Ex Parte Communications Ruling**

In October, 2007, the Georgia Court of Appeals addressed the issue of whether a defendant's contact with a plaintiff's prior treating physicians violates Health Insurance Portability and Accountability Act (HIPAA).

The plaintiff in *Austin v. Moreland* filed her medical malpractice complaint in 2001 alleging that her husband died because transfusions ordered by the defendant were conducted too quickly. The plaintiff produced her husband's medical records during the lawsuit and included documents from three cardiologist's relating to prior treatment.

In 2003, the defendant contacted the cardiologist to discuss the deceased's cardiovascular status and prognosis. The plaintiff objected, but was overruled by the trial court.

After this adverse ruling the plaintiff dismissed her suit and re-filed it with a different court. This time, along with the medical malpractice claims, the plaintiff requested that the court prohibit the defendant from speaking with the deceased's cardiologists. The trial court granted this request resulting in the current appeal.

The Court of Appeals directed the trial court to determine whether the protected health information was disclosed with the plaintiff's consent before or after the effective date of the HIPAA privacy provisions, April 14, 2003. If it was before, then the defendant was allowed to continue communicating with the cardiologists. If it was after, the trial court was free to restrict the cardiologists' disclosure of information to the defendant except in accordance with the HIPAA privacy rule and the Georgia Civil Practice Act.

From a practical perspective, the court ruling is that HIPAA does not prevent ex parte communications between defense counsel and a plaintiff's treating physicians, provided that a request for medical information has been received and not objected to by the plaintiff. In any case where medical records have been produced without objection by the plaintiff pursuant to a document request, ex parte communications may take place. ●



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**By Physicians. For Physicians.****Selling Practices to Hospitals - Boon or Burden?**

It's back – hospitals around the country are looking to an old strategy to pump up managed care contracts, and revenue opportunities in ambulatory services: purchasing physician practices. If you've contemplated selling your practice to a hospital, this article will answer several frequently asked questions, share some of the pitfalls to avoid, and provide resources to contact for a one-on-one conversation.

In the 1990's, hospitals were acquiring practices at break-neck speed. However, the majority of those relationships failed. The owners discovered they paid too much for practices that weren't as profitable as predicted. Hospitals commonly reported revenue losses up to \$100,000 per hospital-owned physician per year. They mostly purchased primary care physician practices and concluded that more specialists should have been acquired. In addition, integrating physician practices into hospital administrative, billing and computer systems was more costly than anticipated.

On the other end, newly hired physicians also had trouble adjusting. The cultures and systems of hospitals are disparate and the speed at which physicians make decisions in their own practice is often quicker. The same decisions in a hospital environment often require more analysis and layers of approval. The physicians also experienced unanticipated costs and the reality that their practices were more profitable prior to selling them. Lastly, there were concerns that under the hospital's medical professional liability insurance, their individual interests would be compromised and their careers and reputations potentially damaged.

The trend to ambulatory services such as out patient facilities, freestanding diagnostic, surgery and treatment centers, has rekindled possibilities

*(Continued on inside flap)*

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