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Achieving True Asset Protection

Over the past 13 years, we have assisted over 400 physicians with their asset protection goals and objectives. Although, the rules and intricacies are ever changing, we have found the most valuable lessons learned are fundamental in nature rather than technical. We believe you have to understand and adopt four fundamental disciplines and characteristics before you can even begin to think about creating a True Asset Protection Plan.



BY W. SHANE HUNT

attractive to that attorney.

Human nature (arguably attorneys are still human) is to choose to do the least amount of work for the most amount of money. Put yourself in the attorney's shoes. If you had the capacity to take on one new medical case and both cases were equal in potential damages, but one of the doctors was one of our clients, who had done true asset protection, which case would you choose?

So what does that mean?

True asset protection has to have these four disciplines and characteristics.

1. All of your assets should be protected. The biggest and most common mistake I have witnessed over the years is when a family takes a fragmentary approach to asset protection instead of a comprehensive approach.

Instead of attempting to cover and protect all of their assets, the client's initial solution or Band-Aid typically sounds like, "I have been paying down my home loan because my equity in the house is protected" or "I am maxing out my pension contributions because my qualified accounts are protected." This is a doomsday scenario approach. The client is looking at it as "worst case scenario," if I get a malpractice judgment then I should be able to at least keep these assets."

Unfortunately, this myopic approach may deny you the most important benefit of true asset protection which is deterring a lawsuit from moving forward in the first place.

This is pretty simple. Attorneys are smart people and they rarely work for free. If they don't think their clients damages are big enough, and/or they will not be able to collect (get paid) if they win (because true asset protection planning has been implemented), then you as a target/potential defendant become a lot less

Now, combine that with having malpractice insurance from a company with a long history of defending doctors. When credible malpractice insurance is combined with true comprehensive asset protection, the message to the plaintiff's attorney is "the only thing you will be able to collect are my insurance policy limits and those will be fiercely defended by the insurance company." Sounds like a lot of work for not a lot of payoff to me.

2. True asset protection requires integrated wealth planning.

If true asset protection requires you to cover all of your assets, then it also requires intentional design that integrates your financial goals with your asset protection objectives. There is no silver bullet. Every decision you make has a cost, not just a hard cost (although that is definitely a factor) but also opportunity cost and intangible costs.

Every asset has different characteristics, benefits, and "levels of asset protection" based on the various ways that you can own or title them. Without proper counsel from a team of disciplines including legal, tax and finance, you will unlikely be able to navigate the decision process to tailor a plan to meet your specific goals and circumstances.

It may sound complicated but it does not have to be. When working with an experienced wealth manager that is well

versed in asset protection planning they can take the lead and act as project manager to assist you in designing an integrated plan.

A wealth manager should educate you on all of your options and be able to assist in calculating your cost of options not just from a financial, but also a tax and legal standpoint and dovetail those decisions with in integrated cross-disciplinary approach.

In short, think of your asset protection plan as your unique family recipe. Your advisor is your chef who helps you decide what ingredients will make up your overall recipe. Additionally, the chef will show you how to use the proper amounts of ingredients in the right order and how to blend those ingredients properly, so your family recipe doesn't end up tasting horrible.

3. Keep it simple. There are a lot of ways to accomplish your objectives, but it does not have to be overly complicated. Making it too complicated is normally very costly and exhausting. Frankly, a lot of asset protection promoters make it complicated so they can look smart and justify charging you more.

Additionally, complicated structures carry additional administration burdens that are rarely completed within compliance. Not only does this mean your asset protection goals can be compromised by the lack of proper administration but it can also open up unintended tax consequences.

4. Failing to take action. Complacency killed the cat ... or something like that. The thought of doing this type of planning may seem overwhelming and a lot of doctors just simply fail to take action. It is really not that hard and the presence of mind you can achieve creates confidence that leads to increased production, better patient experiences, and possibly a better life.

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