Asset protection is a vital part of every physician's essential legal and financial plan; unfortunately, most doctors don't know how to pick the right legal help.

Source: Physicians Practice

Choosing an asset protection adviser is as vital a decision as choosing a surgeon for a complex procedure. Remember that you will often only get one shot at it — protecting yourself may require a significant financial investment, and the results of a novice or inept attorney (or worse, non-attorney promoter who's willing to "wing it" using your life's work) can be financially fatal.

Many lawyers have added asset protection to their seemingly endless list of services over the last few years, due to the economy and the increasing consumer awareness about how vital this planning is. Many of these attorneys are well intentioned and bright, but lack actual, required experience on both your medical practice's specific risks and in this type of planning; and in some cases, make fatal mistakes in their attempt at asset protection planning. They are however, happy to complete their "residency" in this area using your net worth as a test case. Perhaps these new asset protection practitioners are among those with the least fault; everyone has to start somewhere, including your own training as a physician, but I don't recommend being part of their training program.

There are several reasons that lawyers shouldn't be doing this type of planning, including:

- **Declining revenue.** Their traditional practice areas, and estate planning in particular, may be down due to changes in the tax laws that make advanced estate planning less important, simpler, and cheaper for most Americans than it was even a few years ago. Their marketing and legal practice-management organizations (yes, lawyers have those too) are encouraging expanding into asset protection and providing form documents to sell. Buying the best laser in the world won't make me a surgeon — there's a similar analogy for lawyers.

- **Ego, "I can do that."** Potential clients concerned about their risks often approach me. After a thorough review and the delivery of a specific written plan to protect them (by myself or another experienced attorney), they often go back to their existing legal team (that allowed them to get where they are today, without protection) to get their input. What is stunning is the number of attorneys who will review an expert's plan, make a couple of minor comments or changes, and then say, "Yes you need some more planning, we can do that." If the lawyer and the doctor had a long relationship on some other issue and the lawyer was privy to all the details of their business, liability, assets, and etc., and knew the client needed additional planning and was qualified to deliver it, why did they wait years and until their client took action on their own to try and jump in and do work outside their skill set and practice area? If your lawyer did not know enough to suggest asset protection when you were first qualified, based on your risks, assets, and liabilities, he probably doesn't know enough to put it in place for you now — no matter how badly they want a reason to bill you.

Worse are the non-lawyer promoters, selling kits and forms in some kind of assisted DIY program, typically with disastrous results when they venture beyond, say, helping you record an LLC. Put bluntly, working on something this vital with a non-attorney is as stupid as letting a layperson perform surgery using a book. My friend Jay Adkisson is both a leading asset protection attorney and a top creditor attorney; he says he loves amateurs dabbling in this area. Why? Because it will make his job in breaking those plans and collecting the assets that much easier. There are several issues to consider when working with a non-attorney:

- They have no professional liability for giving you bad advice;
- They don't have malpractice insurance;
- Some of their bad advice routinely costs people not only what they were trying to protect, but also additional money and even criminal penalties if it involves a tax shelter; and
- If it's not done right and you have an exposure, you can't go back and do it over. You are stuck with it and the results.

My next discussion will provide a very specific list of due diligence questions to ask when choosing
your own counsel in this area of the law.

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