PFS PHYSICIANS FINANCIAL SERVICES

ClientAdvisor

APRIL 2022

Protect Your Assets

Making money is one thing; keeping it may require an entirely different set of strategies.

From sophisticated legal structures to utilization of a diverse range of industry partners, we consult with our doctors to protect their accumulated assets from adverse judgments, as well as credit and solvency risks.

Some of your assets may already be off limits to creditors in most circumstances. Those generally include your 401(k) plan and, in some states, your IRA. At least a portion of the equity in your principal residence is also protected under many states' laws.

Properly written trusts can help further achieve personal asset-protection goals, as well as proper business formation to protect profits. There are also some hybrid strategies.

Protecting Business Interests

A limited partnership (LP) consists of at least one general partner and a limited partner. The general partner has no asset protection, but the limited partner has a limit on loss of assets. This protection and some legal loopholes make the limited partnership attractive for protecting assets.

A limited liability company (LLC) is another business structure that protects its owners from personal responsibility for its debts or liabilities. Limited liability companies are hybrid entities that combine the characteristics of a corporation with those of a partnership or sole proprietorship.

The primary reason our doctors opt to join a business as a Limited Partner or register their businesses as an LLCs is to limit their personal liability. However, If fraud is detected or if a company fails to meet its legal and reporting requirements, creditors may still be able to go after the members of either entity.

When the Personal is Professional: Family LLC

A family limited liability company (LLC) is formed by family members to conduct business in states that allow LLCs. Members must be related by blood, adoption, or marriage. The family LLC is a popular way to protect the assets of a family business against claims by creditors, divide income among generations, and assist in estate planning. It is a type of closed corporation.

A family LLC is a useful tool to shield family assets from creditors' claims. Each member's financial contribution limits their debt liability for the LLC. Members may be prohibited by the operating agreement from withdrawing and then reacquiring their interests in the company that can be later claimed by creditors.

Other restrictions, such as an absence of certain members' rights to vote or oust the management, limit the ability of creditors to interfere with LLC operations and seize the LLC's assets.

In addition to its use for business purposes, family LLCs are widely used in estate planning. A family LLC can help you control and protect assets during your lifetime, keep assets in the family, and reduce taxes owed by you or family members during your lifetime or after your death.

All family LLCs require the legal expertise of an attorney and should also be set up in a state that has protective LLC laws.

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Financial Credit and Solvency Risk

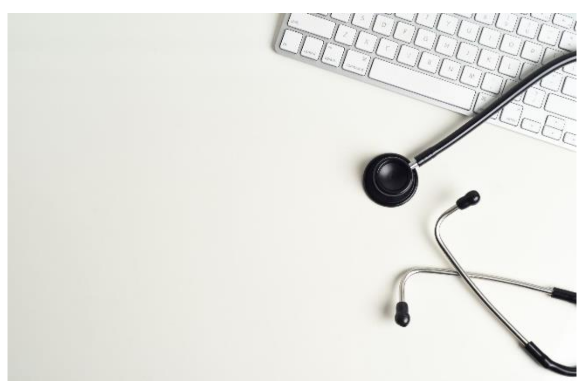
Asset protection can start with simple safeguards such as deposit insurance on bank accounts, and the equivalent for brokerage accounts. The Securities Investor Protection Corporation (SIPC) insures your cash and securities in member brokerage houses against the failure of that firm and, in some instances, theft from your account.

The maximum coverage is $500,000, but, as with the FDIC and banks, you can structure your accounts in different ways (the SIPC calls this “separate capacity”) to multiply your total coverage.

Finally, there is diversification—a risk control technique that spreads loss exposures over a myriad of projects, products, areas, or markets. While clients already often diversify their investment portfolio across assets classes and types of investment risks, the same process can be used to secure their insurance and investments across an array of different companies and carriers, in the however unlikely event of a credit or solvency crisis with any one entity, or instance of fraud.

Personal and Professional Insurance

Perhaps a greater risk to your personal wealth than the possibility of a bank or brokerage failure is a costly lawsuit. High limits on personal home and auto insurance can be supplemented with umbrella insurance. Professional, malpractice, and business liability insurance will depend on the nature and size of your practice. One option for small and mid-sized companies is what's called a business owner policy (BOP), which includes property, liability, and other types of coverage, all rolled into one.



Individual and group malpractice coverage plans are available for those in independent or small medical practices. The optimal type and amount of insurance you need to meet your state’s malpractice insurance minimum requirements and for adequate personal and practice asset protection may vary greatly based on your individual circumstances.

It is important to understand the two basic types of malpractice insurance: "claims-made" and "occurrence." A claims-made policy will only provide coverage if the policy is in effect both when the incident took place and when a lawsuit is filed. This requires that coverage extend for a significant

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period since time may elapse between an incident and a claim. Because of this, some policies provide a "tail" that extends coverage (such as five years) after a policy ends. If not offered as part of the original policy, tail coverage may also be purchased. Occurrence policies differ from claims-made insurance in that they cover any claim for an event that took place during the period of coverage, even if the claim itself is filed after the policy lapses.

Captive Insurance

As business owners, doctors self-insure risks which are either not available or too expensive to obtain through commercial carriers. Cyber Liability, loss of licensure, loss of hospital privileges, and litigation expense are examples. Doctors insure against these important risks not covered by commercial carriers through a captive insurance company, deducting premiums and ultimately earning profits from the activity of the subsidiary company they own.

Proactive Services

We know how frustrating it can be to find out someone is defaming your reputation or even worse, you're being sued. We refer successful doctors to our industry partners who help them prevent, deter, and respond to frivolous medical malpractice suits while leveraging their online reputation to support their practice.

MEDICAL JUSTICE

For successful Physicians and other productive individuals reviewing their asset protection strategy, we commonly refer them to Medical Justice, a subscription service that proactively deters frivolous lawsuits, neutralizes medical malpractice cases, and provides online reputation management. This supplemental service exists in addition to the *reactive* medical malpractice coverage from an insurance carrier.

Threats of physical harm are also, sadly, a very real security risk. Medical Justice provides services to de-escalate patient conflicts and provide security consultations.

No good deed:
Directors and Officers Insurance

If you serve on a board, even as an unpaid volunteer for a nonprofit, you could face a personal lawsuit as a result. If the organization doesn't already provide directors and officers (D&O) liability insurance for you, it's worth investigating, and perhaps declining an invitation to join a board if not in place.

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Conclusion: have a competent team

While many of our doctors are understandably focused on growing their assets, having the right team in place to form and structure their personal and professional lives is critical to protect their assets from an array of risks. We work in conjunction with trusted partners in the legal, accounting, and financial industries to ensure a broad variety of tools are available and implemented not just to increase surplus assets but protect them for our clients and their progeny.

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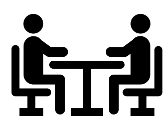
Reach out and start your journey from less to more.

Physicians Financial Services is an independent financial services firm specializing in the unique financial needs of doctors and their families, as well as other productive individuals. A national practice, PFS has administrative offices in Omaha, Nebraska.

Contact us today to get started, and we'll help you come up with strategies that are right for your needs. Ask us about our four-question "Loss Test" to help us determine if we can help you.

Schedule a Consultation



Schedule a Client Review

How an LLC Protects Your Personal Assets

Creditors of a limited liability company member cannot seize or force a sale of the member's interest. Nor can the member's creditor vote the interest of the debtor-member. The member's creditors can only obtain a court charging order remedy to direct the limited liability company to pay to the creditor any income distributions that would otherwise flow to the debtor-member. This is the same charging order remedy that a limited partner's creditor has against an interest in a family limited partnership. The creditor gains only the financial rights of the debtor-member, not control or ownership rights. Note that the charging order will not 1) give your creditor voting rights or 2) force the limited liability company manager to pay distributions to a member or his creditor. The charging order only directs distributions to the creditor rather than the debtor-member. The charging order may thus be as futile a creditor remedy with the limited liability company as it is with a family limited partnership. If you manage your limited liability company, you will decide if and when you will make distributions.

"Captive Insurance" Defined

The term "captive" has been broadly applied to any insurance company with owners who are generally the same as, or related to, the parties whose risks comprise a substantial portion of those insured by the company. Generally, a captive insurance company operates at the behest of and for the benefit of a non-insurance parent company or group (e.g., "group captive"). Thus, a captive insurance company is one that is owned by those whose risks it insures. Ownership may be by a single parent or by a group of shareholders. From an organizational perspective, these entities resemble mutual insurance companies but for a limited number of participants. A significant component of the alternative risk market is represented by "captive" insurance companies. Due to their growth, strength, and utility over the past decade, captive insurance companies are no longer considered by many insurance professionals to be merely an "alternative" insurance market. In fact, the use of a captive is now seen as an integral part of general business risk management.

Clients of Physicians Financial work with Providers where fees are disclosed in writing and expenses are efficient. The Domiciles have very low premium taxes and investment management expenses are at institutional rates (much lower than retail)

We continue to review developments in this industry which provide further opportunity for efficiency.

Tax Treatment captives are popular because they have very favorable tax treatment which offsets much of the expense of running the captive and allows potential to accumulate wealth if the company has good claims experience. Any program with favorable tax treatment which comes into broad use becomes an item of interest to the IRS.

Clients of Physicians Financial do not fund life insurance with captive assets or captive dividends. If one feels strongly that they want to fund life insurance contracts with captive insurance company funds, they should also expect to defend that position over the next several years or until some safe harbor guidelines are provided by the IRS.

It is possible that the use of captives and other tax favored programs can reduce your personal taxable income close to zero. That kind of aggressive planning will invite an IRS challenge, which will be expensive to defend and likely result in taxes, interest and penalties. Captives can provide a number of benefits while avoiding extremely aggressive positions that will invite unneeded scrutiny.

Disclaimer

All information provided by Physicians Financial Services is for information purposes only and is not, and does not constitute or intend to constitute, investment advice or any investment service. Such information also is not and should not be deemed to be an offer to purchase or sell or a solicitation of an offer to purchase or sell, or a recommendation to purchase or sell any securities or other financial instruments. The content in this promotional literature is based on sources that are considered reliable. No guarantee is provided on its accuracy, correctness or completeness either express or implied. The information provided is purely of an indicative nature and is subject to change without notice at any time. The information provided does not confer any rights. The value of your investment may fluctuate. Results achieved in the past are no guarantee of future results. You must make your own independent decisions regarding any securities or other financial instruments mentioned herein. You are advised to seek professional advice as to the suitability or appropriateness of any products and their tax, accounting, legal or regulatory implications.

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