

LEGAL CHECK-UP #6

**By: Matthew S. Feldman, Esq., General Counsel
New York State Podiatric Medical Association**

PRACTICE TRANSACTIONS

- Are you thinking of buying a practice?
- Are you thinking of selling a practice?
- Are you thinking of bringing on a partner?
- Are you thinking of retiring?
- Are you taking the necessary steps now to maximize the value of your practice?

The purchase of a professional practice requires significant due diligence and drafting the appropriate agreements to maximize the profitability of the acquisition and minimize exposure to any liability associated with the practice. Among the issues that need to be addressed are the transition of and potential for attrition among existing patients, the ability of the seller to compete with you after the sale, and how to limit your exposure to the seller's liabilities.

In our experience, the number one concern of sellers of professional practices is securing payment by the purchaser of the practice. Often there are no "hard assets", such as real estate, used to secure a promissory note. While the absence of hard assets makes it more difficult, there are other ways to secure those obligations for the benefit of sellers.

There may come a day when you choose to discontinue your practice. The steps you take before that day will determine whether your practice will be a valuable asset for sale, or a darkened room to which you simply lock the door on your way out. Non-assignable office space, non-transferrable equipment financing or leases, financing requiring hefty pre-payment penalties, and other agreements with third-parties all present substantial obstacles to realizing maximum value for your practice. By carefully avoiding or removing those obstacles now, the health care provider can increase the likelihood of receiving maximum value for his or her practice later.