

RISK MANAGEMENT, LIABILITY INSURANCE, and ASSET PROTECTION STRATEGIES for DOCTORS and ADVISORS

Best Practices from Leading Consultants and
Certified Medical Planners™



Edited by

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Foreword by J. Wesley Boyd MD PhD MA

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FOREWORD

Life is full of risks; especially for physicians. Some are known and likely to manifest themselves, whereas others are known but unlikely to ever materialize. There are probably far more risks that are unknown to us, and if we are lucky, remain that way. Fortunately, many of the known risks of practicing medicine are outlined in **RISK MANAGEMENT, LIABILITY INSURANCE AND ASSET PROTECTION STRATEGIES for DOCTORS and ADVISORS** [Best Practices from Leading Consultants and Certified Medical Planners™]. It is a comprehensive textbook edited by nationally known authority David Edward Marcinko, and his experienced team from the Institute of Medical Business Advisors Inc., Atlanta, Georgia.

Given this reality, how do we face both the known and unknown risks? Risk tolerance is probably partially inborn. Some of us are born more anxious than others and more prone to worry about possible eventualities; while others much less so. Inborn anxiety is likely genetically based but may also be related to prenatal environment. Others who might not have an inherent predisposition to anxiety and risk aversion, but who experience trauma or significant loss in their lives, often become conditioned to fear risk.

These observations are important when considering the many topics presented herein because if doctors are less anxious, they might be willing to take on more risk without covering themselves by way of vigilance and various insurance products. By contrast, colleagues who are generally more anxious probably do worry more, anticipate disaster more, and plan for it by insuring themselves.

For example, any time we purchase non-compulsory insurance, we have implicitly or otherwise, decided that we are not wasting our money by over-insuring ourselves. Others who might be more carefree and less prone to worry often conclude the opposite and might inadvertently take on a dramatic amount of risk; in terms of financial payout, professional scrutiny, public ignominy or otherwise. No matter our natural disposition to worry, if we have experienced an adverse outcome in the past, we will almost definitely prepare differently in the future, given that we are often fighting last battles. Thus, if a physician has previously faced a malpractice lawsuit, s/he will almost definitely err on the side of overprotection in various ways, including purchasing more insurance than might be otherwise indicated, spending much greater time writing office notes, and proceeding with extra caution in clinical encounters.

Of course, there are obvious downsides to this overabundance of caution. One might spend more than necessary on insurance policies, be less likely to innovate or experiment when treating patients, and be much more cautious in professional or personal interactions as they may believe every encounter is a potential lawsuit in the making. By contrast, someone not otherwise prone to anxiety, or who has never been sued, might err in the opposite direction. Either course of action carries potential costs and **RISK MANAGEMENT, LIABILITY INSURANCE AND ASSET PROTECTION STRATEGIES for DOCTORS and ADVISORS** illuminates all sides of these issues across a broad spectrum of traditional, and ever evolving risks, faced in the modern era.

Just consider one of the most fundamental issues in health care - documenting the clinical encounter. The old adage is that if something is not recorded in the medical record, it did not happen. Failure to document any aspect of a medical encounter opens one up to being charged with not performing some action. Given this reality, each time we document a patient encounter we ask ourselves the fundamental question of how much should we write, dictate or electronically scribe? If we chose to document every aspect of the encounter, our notes would presumably work well in court if sued. However, the time spent on creating "the perfect note" takes a toll in various ways, including requiring extra office time, less time with family, or less attention to basic self-health needs. Whether we are consciously aware of this decision, it is one calculus among many that is at play every time a physician meets a patient or has a professional encounter.

Another issue most of us face daily is that of how we interact with co-workers. How friendly should we be? How much should we let anyone know if we find a co-worker attractive? Where is the border between friendly engagement and sexual harassment? The fact is not so clear given the rule of thumb that harassment is in the eyes of the receiver. The upshot of this rule is that if offended in some way, one could legitimately register a sexual harassment complaint. Given this reality, how much personal interaction is too much? What if someone tells his co-worker he likes her scarf? Is it ever permissible to compliment a colleague on how she looks? Or, ask a colleague on a date? How one answers these questions in part depends on personal psychological makeup in addition to past experiences. The fact is that one should "never" ask for a date in the office setting. One lawyer I knew advised clients that before they did so - or before they even entertained the question - should self-guarantee the person being asked will be the last one with whom they ever sleep. The reason is that formal complaints are unlikely in the beginning. However when relationships go sour, as they almost always do, one of my rules of thumb is that every romantic relationship we enter except possibly the last one - will end before we die - and that's when complaints are filed.

Of course, how such scenarios affect marital harmony, assets and net worth is unique to each case, but the topic is humanely considered in the chapter on divorce mediation. And, what about the increasing problem of medical workplace violence; how are potential perpetrators identified, diagnosed and treated? What about the victims and economic costs? The lurid topic is also bravely tackled herein.

Another aspect of professional practice danger discussed in **RISK MANAGEMENT, LIABILITY INSURANCE AND ASSET PROTECTION STRATEGIES for DOCTORS and ADVISORS** is that of licensure and licensing boards. Most of us don't even consider the nature of licensing boards or how they wield such considerable authority and power? But, for those referred to the board for questionable behavior, medical professionals quickly realize they are disempowered and totally at the mercy of their board. For those suspected of having substance use disorders or behavioral health issues, if a licensing board refers them to a physician health program, they are generally told that they need to comply with all recommendations made by the physician health program in order to continue practicing. Contributors that understand the power of state

medical boards highlight some of the potential abuses meted out and provide information to allow them to stay below the radar screen.

Nevertheless, no matter how well informed we are about potential problems or pitfalls in any of the arenas of practice life - no matter how well insured we are against personal or professional liability, and no matter how excellent our educations are in our fields - unforeseen events will happen. We will make mistakes at times. We will commit errors. Unfortunately, even when we do everything right and adhere to acceptable clinical standards-of-care, some outcomes will be bad. So, even as doctors tend to be risk averse, the reality is that we can never prevent all bad outcomes or eliminate all risks. And, even though we cannot eliminate them, understanding the risks we face is invaluable in protecting us psychologically, if not financially, across many risk elements.

So, we are fortunate that **RISK MANAGEMENT, LIABILITY INSURANCE AND ASSET PROTECTION STRATEGIES for DOCTORS and ADVISORS** [Best Practices from Leading Consultants and Certified Medical Planners™] is available to alert us of danger as it fulfills its promise as a peerless tool for doctors seeking to make good decisions about the risks they face. It is also ideal for financial advisors, insurance agents, attorneys, accountants, psychologists and consultants who advise medical professionals and wish to added deeper value to their client relationships.

With time at a premium, and so much information packed into one well organized resource, this comprehensive text should be on the desk of everyone serving in the healthcare and medical ecosystem. The time you spend reading this frank and compelling book will be richly rewarded.

J. Wesley Boyd; MD PhD MA

Harvard Medical School
[Assistant Clinical Professor of Psychiatry]
Cambridge Health Alliance
Boston Children's Hospital
[Staff psychiatrist]
Yale University

BOOK TESTIMONIALS

Physicians who don't understand modern risk management, insurance, business and asset protection principles are sitting ducks waiting to be taken advantage of by unscrupulous insurance agents and financial advisors; and even their own prospective employers or partners. This comprehensive volume from Dr. David Marcinko, and his co-authors, will go a long way toward educating physicians on these critical subjects that were never taught in medical school or residency training.

DR. JAMES M. DAHLE; MD, FACEP

[Editor: The White Coat Investor]
Salt Lake City, Utah

With time at a premium, and so much vital information packed into one well organized resource, this comprehensive textbook should be on the desk of everyone serving in the healthcare ecosystem. The time you spend reading this frank and compelling book will be richly rewarded.

DR. J. WESLEY BOYD; MD, PhD, MA

[Harvard Medical School]

Boston, MA

Physicians have more complex liability challenges to overcome in their lifetime, and less time to do it, than other professionals. Combined with a focus on practicing their discipline, many sadly fail to plan for their own future. They need trustworthy advice on how to effectively protect themselves, families and practice, from the many overt and covert risks that could potentially disrupt years of hard work.

Fortunately, this advice is contained within RISK MANAGEMENT, LIABILITY INSURANCE, AND ASSET PROTECTION STRATEGIES FOR DOCTORS AND ADVISORS [BEST PRACTICES FROM LEADING CONSULTANTS AND CERTIFIED MEDICAL PLANNERS™]. Written by Dr. David Edward Marcinko, Nurse Hope Rachel Hetico and their team of risk managers, accountants, insurance agents, attorneys and physicians, it is uniquely positioned as an integration of applied, academic and peer-reviewed strategies and research, with case studies, from top consultants and Certified Medical Planners™. It contains the latest principles of risk management and asset protection strategies for the specific challenges of modern physicians. My belief is that any doctor who reads and applies even just a portion of this collective wisdom will be fiscally rewarded. The Institute of Medical Business Advisors has produced another outstanding reference for physicians that provide peace of mind in this unique marketplace! In my opinion, it is a mandatory read for all medical professionals.

DAVID K. LUKE; MS-PFP, MIM, CMP™

[Net Worth Advisory Group, Inc]

Sandy, Utah

This book is a well-constructed, comprehensive and experiential view of risk management throughout the entire medical practice life-cycle. It is organized in an accessible, high-yield style that is familiar to doctors. Each chapter has case models, examples and insider tips and useful pearls. I was pleased to see multi-degreed physicians sharing their professional experiences in a textbook on something other than clinical medicine.

I can't decide if this book is right on - over the top - or just plain prescient. Now, after a re-read, I conclude it is all of the above; and much more.

DR. PETER P. SIDORIAK

[Pottsville, PA]

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When a practicing physician thinks about their risk exposure resulting from providing patient care, medical malpractice risk immediately comes to mind. But; malpractice and liability risk is barely the tip of the iceberg, and likely not even the biggest risk in the daily practice of medicine. There are risks from having medical records to keep private,

risks related to proper billing and collections, risks from patients tripping on your office steps, risks from medical board actions, risk arising from divorce, and the list goes on and on.

These liabilities put a doctor's hard earned assets and career in a very vulnerable position. This new book from Dr. David Marcinko and Prof. Hope Hetico shows doctors the multiple types of risk they face and provides examples of steps to take to minimize them. It is written clearly and to the point, and is a valuable reference for any well-managed practice. Every doctor who wants to take preventive action against the risks coming at them from all sides needs to read this book.

RICHARD BERNING; MD, FACC

[New Haven, CT]



This is an excellent companion book to Dr. Marcinko's COMPREHENSIVE FINANCIAL PLANNING STRATEGIES for DOCTORS and ADVISORS [Best Practices from Leading Consultants and Certified Medical Planners™]. It is all inclusive yet easy to read with current citations, references and much frightening information. I highly recommend this text. It is a fine educational and risk management tool for all doctors and medical professionals.

DR. DAVID B. LUMSDEN; MD, MS, MA

[Orthopedic Surgeon]

Baltimore, Maryland

This comprehensive text book provides an in-depth presentation of the cyber security and real risk management, asset protection and insurance issues facing all medical profession today. It is far beyond the mere medical malpractice concerns I faced when originally entering practice decades ago.

DR. BARBARA S. SCHLEFMAN; DPM, MS

[Family Foot Care, PA]

Tucker, GA]

Am I over-insured and thus wasting money? Am I under-insured and thus at risk for a liability or other disaster? I never really had the means of answering these questions; until now.

DR. LLOYD M. KRIEGER; MD, MBA

[Rodeo Drive Plastic Surgery]

Beverly Hills, CA

I read and use this book, and several others, from Dr. David Edward Marcinko and his team of advisors.

DR. JOHN KELLEY; DO

[Orthopedic Surgeon, Tucker, GA]



An important step in the risk management, insurance planning and asset protection process is the assessment of needs. One can create a strong foundation for success only after all needs have been analyzed so that a plan can be constructed and then implemented. This book does an excellent job of recognizing those needs and addressing strategies to reduce them.

SHIKHA MITTRA; MBA, CFP®, CRPS®, CMFC®, AIF®

[President - Retire Smart Consulting LLC]

Princeton, NJ

The CERTIFIED MEDICAL PLANNER™ professional designation and education program was created by the Institute of Medical Business Advisors Inc, and Dr. David Edward Marcinko and his team (who wrote this book). It is intended for financial advisors who aim specifically to serve physicians and the medical community. Content focuses not only on the insurance and professional liability issues relevant to physicians, but also provides an understanding of the risky business of medical practice so advisors can help work more successfully with their doctor-clients.

MICHAEL E. KITCES; MSFS, MTAX, CFP®, CLU, ChFC, RHU, REBC, CASL

[www.Kitecs.com]

Reston, VA

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I have read this text and used consulting services from the Institute of Medical Business of Advisors, Inc on several occasions.

DR. MARSHA LEE; DO

[Radiologists, Norcross, GA]

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The medical education system is grueling and designed to produce excellence in medical knowledge and patient care. What it doesn't prepare us for is the slings and arrows that come our way once we actually start practicing medicine. Successfully avoiding these land mines can make all the difference in the world when it comes to having a fulfilling practice. Given the importance of risk management and mitigation, you would think these subjects would be front and center in both medical school and residency - "they aren't." Thankfully, the brain trust over at iMBA Inc., has compiled this comprehensive guide designed to help you navigate these mine fields so that you can focus on what really matters - patient care.

DENNIS BETHEL; MD

[Emergency Medicine Physician]

THE END

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