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Attorneys Stephanie Preut and Brian Niceswanger share four contract types that can cause problems for D.C.s.

RISK MANAGEMENT

Problem Areas with Contracts

Do you read agreements before you sign them? If so, you're probably among the minority. Particularly with the proliferation of electronic documents, which seem to drag on screen after screen after screen, the temptation is simply to click "I accept" or sign without really knowing what obligations you're undertaking.

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Why spend the time and money hiring a lawyer to look into an agreement before you sign it? Because the laws, regulations and procedures relating to

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contracts, particularly real estate, vary widely from state to state. Without being legally familiar and experienced with contract provisions, including unique requirements of your jurisdiction or characteristics of the agreement, you may be essentially entering into the contract blindly. Here are some examples of how contracts can become problematic.

Noncompete and Trade Secrets

Dr. Mose worked in Dr. Beary's clinic for six years and had a covenant not to compete that also listed certain items Dr. Beary considered to be "trade secrets." Dr. Mose opened his own office within the 20-mile geographical restriction. He also sent grand opening announcements to his patients from the former clinic by using patients' information taken from the practice.

Dr. Beary sued his former colleague, claiming breach of the covenant not to compete and misappropriation of trade secrets (patient names and addresses). The trial court granted Dr. Beary's temporary injunction, which was affirmed on appeal. Dr. Mose was left with a leased office space he could not use to practice chiropractic.

Property Restriction

Dr. Joneson entered into a real estate contract in his home state that had a "dual system" under which two sets of land records were maintained independently. By failing to be aware of the potential that a single parcel of land may be registered in both systems and overlap, requiring multiple recordings, Dr. Joneson did not consult with a real estate attorney and unknowingly created a problem at acquisition that interfered with future financing and transfer.

Law Practice Group. Niceswanger has represented doctors and institutions in a broad range of health-law related matters, including STARK, Medicare/Medicaid Reimbursement, professional malpractice litigation and state board licensure.

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Dr. Joneson could have avoided his plight by consulting with counsel in his geographical area to ensure a smooth transaction and to safeguard his business and personal interest, but he failed to do so.

Equipment Leases

At the recommendation of colleagues and a lender, Dr. Halpet entered into a lease for an expensive piece of chiropractic equipment. Her husband cosigned as a guarantor of the lease obligation. Dr. Halpet soon learned that the expected health insurance reimbursements for treatment using the leased equipment was not paid. Without these reimbursements, Dr. Halpet went into default on the lease and soon found herself sued for the entire value of the lease.

The evidence was that Dr. Halpet did not read the lease and left that task to her office manager. She also did not consult with an attorney regarding the lease although she had the opportunity to do so.

Franchise Agreements

Dr. Smitty owned a local franchise of a regional chiropractic organization. When she was recently sued by a patient who experienced a stroke following a cervical adjustment, the franchisor was also named in the case. No sooner had Dr. Smitty been served with the suit papers, when the next document she received via certified mail was a demand by the franchisor for her to defend the newly filed lawsuit and to indemnify the franchisor from any damages that may be awarded. Dr. Smitty was taken aback, until she read the provision in the franchise agreement that required her to undertake both of these obligations.

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This is a poignant example of how failing to read and understand the terms of the contract can unknowingly create substantial financial risk. Defending and indemnifying against potential damages in a case like this can be very expensive. By not reading her franchise agreement (and arranging for coverage for the franchisor as an additional insured under her policy), Dr. Smitty put her practice and her family at great financial risk.

The Right Expertise Makes a Difference

Why do attorneys visit chiropractors' offices? The simple answer is that as attorneys we didn't spend years of our lives learning anatomy, physiology, and chiropractic treatment techniques, so we can't treat ourselves. Many of us have learned firsthand of the benefits of chiropractic care.

Why should chiropractors visit attorneys' offices? Most chiropractors haven't spent seven years of their life in post-high school education obtaining a law degree and the requisite experience to be able to review and evaluate items such as leases, employment contracts, real estate contracts and third-party payer agreements. Each chiropractor in the examples could have avoided financial loss, legal expenses and time spent if they would have sought the advice and counsel of an attorney with experience in the particular area of law.

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