



SAINT LOUIS UNIVERSITY

SCHOOL OF MEDICINE



GREENSFELDER

ATTORNEYS AT LAW

***SAINT LOUIS UNIVERSITY
RESIDENTS' ASSOCIATION
PRESENTATION***

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ASSET PROTECTION FOR PHYSICIANS

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What Concerns?

■ Medical Malpractice Claims

○ Johns Hopkins Medicine Study (2016)

- Medical errors rank as 3rd leading cause of death in the U.S.
- More than 250,000 people die in the U.S. every year from medical errors

○ 2017 amounts *paid out*^{*}

- U.S. \$3,843,211,300 (-2.54% from prior year)
- Missouri \$69,014,550 (-0.42% from 2015)
- Illinois \$274,866,750 (+10.11% from 2015)

○ 2018 amounts *paid out*^{**}

- U.S. \$3,924,073,250 (+2.34% from prior year)
- Missouri \$54,644,750 (-20.72% from 2016)
- Illinois \$300,790,050 (+11.49% from 2016)

^{*}Source: <http://www.diederichhealthcare.com/the-standard/2017-medical-malpractice-payout-analysis/>

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What Concerns?

- *What happens if I get sued for a catastrophic accident to a patient under my care and supervision?*
 - Medical Malpractice Insurance
 - Protection available only up to coverage limits
 - State laws differ on level of potential recovery
 - Missouri – caps on damages
 - Illinois – no caps
 - Risks of exposure of personal assets

Asset Protection Strategies

- For **private practice**, form a business entity:
 - e.g. Corporation, Limited Liability Company, Limited Liability Partnership
 - Provides additional layer of individual protection from business debts
 - Still may not be enough to shield physician from personal liability for matters involving patient care
- **Insurance**
 - Medical Malpractice
 - Umbrella

Asset Protection Strategies

▪ Estate Planning

○ Married Couples

- Proper planning may provide protection from individual creditors
 - but not *joint* creditors!
- Titling of Assets
 - Tenancy by the Entirety
 - Missouri – all property owned by couple
 - Illinois – primary residence of couple
 - Allocation of assets between spouses
 - Note: be mindful of transfer consequences to a spouse for purposes of characterizing property in the event of divorce

○ Single Persons

- Asset protection planning for unmarried individuals is trickier

Asset Protection Strategies

- **Estate Planning (Married Couples)**
 - Trusts
 - Irrevocable Trusts
 - Revocable Trusts
 - Qualified Spousal Trusts (Missouri)
 - Retirement Accounts
 - e.g. IRA, 401k, 403b
 - Protected from creditors under certain circumstances
 - Inheritance/Gifts
 - Receiving assets outright vs. in trust

Questions?

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- Estate Planning – Wills/Trusts
- Asset Protection Planning
- Business Formation
- Shareholder/Partnership Agreements