The Graceful Exit

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Introduction: The Challenge of Change

Few things require more long-term commitment than a working in a medical practice. Moving from one practice setting to another, or retirement from practice can be a daunting task. Nevertheless, such moves are a frequent occurrence. As many as 40 % of newly practicing physicians choose to leave their initial practice within 2 years of joining (1). Even if the move is for an exciting new opportunity or a much-needed change, leaving a medical practice is both complex and stressful. Physicians who have been colleagues and partners may find themselves forced to sit on opposite ends of a negotiating table to define exit strategy and financial terms. Achieving a "graceful exit" requires careful preparations. In this toolbox, we will highlight important items that gastroenterologists need to consider before making a move towards retirement or practice change.

Step One: Pre-announcement Contractual Reviews

Before announcing your intention to leave a practice, it is critical that you to review all relevant contractual arrangements. These include: your employment contract, managed care contracts, partnership agreements, operating agreements, purchase agreements, non-compete/non-solicitation clauses and stock-purchase agreements. It is also important to revisit practice policies as they might be set to override your current employment contract if they differ in certain aspects (2). Review the precedents set by the departure of previous partners in the practice in order to avoid potential pitfalls. The abiding agreements, policies, and clauses must be weighed carefully into your decision to announce your departure. Carefully consider the best timing for your departure. Considerations to consider are listed in Table 1 below.

Considerations for Optimal Timing for Departure or Retirement
1. How will you departure affect the value of your ownership and the ownership of other partners?
2. How will purchase of your ownership interest be financed?
3. Does your departure violate any legal commitments to the practice?
4. Does your departure violate any financial obligations such as bank loans, real estate loans or lease agreements?
5. Does the manner of the departure violate any non-compete agreements?
6. Does the practice have the capacity to assume your clinical responsibilities, or will you need to help patients find new providers?

It is also importance to inquire about the type of malpractice insurance policy that you carried through your employment. If it is a "claim made" malpractice insurance policy, it means that you are insured for claims made while you are employed. In that case, you should procure a supplemental endorsement policy known as "tail coverage." The latter usually costs 1.5 to 2 times the annual premium (2).

Once the above question and issues are carefully evaluated, note the pros and cons of leaving with consideration the impact of your decision on your family, finances, and career. While it is often considered prudent to keep any active job searches discreet until you are sure of your final decision, you may benefit from having an open dialogue with your current colleagues about the issues and considerations driving the change. It is best to announce retirement plans with plenty of time for your partners to make any necessary arrangements, especially if they will need financing to purchase your ownership interest.

Step Two: Announcements

When it comes to announcing your departure, your current partners should come first. It is important to have your partners notified about your intention to leave the practice before they hear it from others. It may be considered disrespectful and will likely leave a bitter taste if they learn of your plans from others. Discuss with them the "when" and "how" to announce your departure. It is essential to give plenty of notice. The required notice may also be stated in your contract. It should be enough time for you to take care of business, and for them to work on finding a replacement as well as manage any ramifications of your departure. Do not forget to show gratitude and appreciation for the opportunity to be part of the team. Acknowledge mentorships and the various support you received. Give constructive criticism while highlighting the positive impact the job had on your life and career.

Next you will need to notify professional societies, specialty boards, state licensing boards, malpractice carriers, and contracted health plans. It is recommended to notify health plans at least 60-90 days from your departure to allow them to update their network (1). If you are moving to another state, similar agencies must be contacted, and licensing and professional liability requirements must be met.

After notifying your partners, you should provide enough notice to institutions or locations where you treat patients. The notification can be achieved with a telephone call followed by a confirming letter a few weeks in advance of your departure. For legal reasons, the letter should clearly state the contact information of the physician(s) picking up patients' care.

Step 3: The Clinical Exit

Finish your assignments while gradually retreating from your responsibilities as part of a clear transition plan. Do not hesitate to recommend a qualified colleague for your replacement, offer to help recruit and or train your replacement, and check with the state authorities regarding the recommended timeline for patient notification. Many states require notifying patients when a physician is leaving the practice. The timeline of notification can vary from one state to another. A letter formulated in conjunction with your former partners is the most commonly used notification form.

In general, patient charts belong to the practice and cannot be taken by the departing physician, unless your contract and the state-mandated responsibilities regarding patient transfer and recordkeeping state otherwise. It is worth noting that most states permit patients to request that their charts be transferred to the departing physician (2).

Step 4: The Financial Exit

While every practice is unique, in gastroenterology there are valuable assets such as ambulatory surgical centers (ASCs), ancillary businesses, and real estate. Understanding the buy/sell agreements for these entities should begin years before you retire or depart. This may allow you to identify and make important amendments long before your departure. Consider reviewing these governing documents every few years, perhaps when new associates are joining your practice. While ownership agreements come in all shapes and sizes, it is important to review them carefully again as you plan a departure. Make sure these agreements adequately compensate you for your assets without crippling your practice financially when you do leave.

One important item that must be addressed is the treatment of accounts receivable for the departing physician. Defining exactly what is owed to the departing physician, clearly stating when and how she/he will be paid. If it is not clearly stated in the practice agreement(s), an "exit agreement addendum" should be drafted to address those details. Verbiage stating that there would be access to the practice financial records granted to the retiree should also be included (1).

Valuing your Practice

Valuation of assets, particularly those of an ASC, equipment and real estate are likely to be key issues in the departure of a GI physician. Decide both who will be assigned the task of determining the valuation as well as what method will be used. Reviewing historical valuations when bringing in new partners could be helpful. If a certain "multiple of EBIDTA" was previously used for a buy or sell events, it may be easiest to use the same multiple again. If there is a high degree of trust for a cooperative departure, then it may be appropriate for the practice's accountant to perform the valuation. If, however, there is a likelihood of conflict, or if you and your partners disagree about the valuation method, an independent firm should be retained. Be sure to also stipulate how these valuation-services will be paid for. We recommend an equally shared payment for this service.

Methodologies for valuation of a business can be complex, but a general review is appropriate. According to Matt Sobieralski, former senior business analyst for Physicians Endoscopy, most ASCs rely on historical multiples of cash flow as a basis for valuation (3). There are two critical components for this approach, the EBITDA and the valuation multiple. The valuation multiple would usually be clearly spelled out in the exit agreement and may be based on factors such as size, risk, liquidity and competition in the marketplace.

The EBITDA stands for "earnings before interest, taxes, depreciation and amortization." It is used as a proxy for actual cash flow and accurately captures the earning potential of the ASC or other asset that is being sold. EBIDTA is generally an annual value, but carefully consider whether the EBIDTA will be an average of just the immediate previous year, or of several previous years. This can have profound implications. Obviously, it is important for physicians to carefully consult with their business accountant to understand their own unique tax and debt status before and during their anticipated exit.

Succession Planning: The benefits of a pre-determined exit pathway

Succession planning best is done in an open, pro-active, and transparent way. Important questions such as whether the retiring physician may continue to work part-time may also be addressed long before a retirement event begins. As an example, does the practice allow the retiring physician to cut back hours or stop taking call, but remain in the practice? Does your group allow you to do this and also take your exit-distribution? Some agreements state that a physician must die, be disabled, or exit completely to take any final distribution. This creates a counter-incentive to a smooth and mutually beneficial succession. A clearly defined process for a smooth departure is critical for medical practices seeking to recruit new members. A professional services agreement (PSA) for partners approaching retirement can be an excellent option for practices seeking to ease the transition both clinically and financially (4). A PSA should include a formula for compensation for the semi-retiring physician based on collections, minus the overhead rate of the practice and the expenses allocable to the "contractor." Other items to clearly define include the treatment of compensation and expenses, malpractice insurance requirements, duration of the agreement, terms for renewal, and provisions for early termination.

A Graceful Exit for a Brighter Future

Change is part of every career and cannot be avoided. Likewise, physician retirement/exit is an inevitable event and is part of the normal career cycle of every gastroenterologist. Achieving a graceful exit requires open communication, careful planning, and consideration of important details that can save you and your former partner(s) preventable legal headaches and financial losses. Leaving properly helps ensure a positive outcome for the departing physician and the long-term success of the practice.

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