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ATTORNEY AT LAW
CONFIDENTIAL ASSET PROTECTION PLANNING
CHECKLIST

Asset protection planning is best done in advance of any potential claims. This checklist is intended for clients who are solvent and under no immediate threat to hide assets from existing creditors.

This document is intended to elicit the type of information that will assist concerned individuals in protecting themselves against possible future creditors. As to such an individual, we will use this information to suggest various methods and techniques for protecting assets.

Please complete this form to the best of your ability. We will rely on the answers that you provide to us on the following pages to offer you our best advice on protecting your assets. If you are not sure of the answer to a particular question, please be certain to make a note of it and we will discuss your questions when we meet.

By signing below, you indicate that the information set forth in this Asset Protection Planning Checklist is true, accurate and complete to the best of your knowledge. In addition, you should be aware that you have a continuing obligation to provide true, accurate and complete information and you agree to notify this law firm if any information comes to your attention which would affect that accuracy or completeness of any matter discussed herein.

Date

X _____
Print Name: _____

ASSET PROTECTION CHECKLIST

PLANNING FOR CHILDREN

	<u>Yes</u>	<u>No</u>
<p>1. Do you currently have a valid Last Will and Testament in effect? What are the general terms of this document? (If you cannot provide a copy, please state the general terms below)</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>In the event of death of you and your spouse, is there a guardian appointed to provide physical care for your minor children? Who have you appointed as the guardian?</p> <p>_____</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Are you satisfied with this selection? If not, who would you prefer to appoint? _____</p> <p>_____</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>2. In the event of death of you and your spouse, have you provided for the formation of a trust for the benefit of your children? In the event your spouse does not survive you, is this trust the alternate or contingent beneficiary of your life insurance? Who are the current beneficiaries of your life insurance? Please explain: _____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<p>3. Have you selected a trustee to manage funds for the benefit of your children? Do you have a relative or friend in whom you have a sufficient level of trust to appoint him or her to serve as a trustee? Do you have a relationship with a financial institution that you would prefer to appoint as a trustee? Note: It is sometimes better to appoint different individuals to serve as guardian and trustee so as to create a system of checks and balances.</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

<p>4. Have you started saving for your children’s college education? Please describe what type of college savings plan you are currently employing. _____ _____ _____</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>
<p>5. Do you have any accounts for the benefit of your children that are titled under the Uniform Gifts to Minors Act? What is the approximate current balance in these accounts? _____ _____</p> <p>Who is the custodian of these accounts? _____</p> <p>Is there an alternate custodian appointed on these accounts who will serve in the event of the death or disability of the current custodian? Note - If the donor to these accounts is serving as the custodian, then the account will be subject to estate tax on donor’s death.</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>
<p>6. Does the trust, if any, formed for the benefit of your children provide any creditor protection advantages? Does the trust protect your child’s assets from divorce creditor claims? What are the general terms of this trust? _____ _____</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>
<p>7. Do your children have (or expect to receive) significant assets? Are they the intended beneficiaries of assets from their grandparents? Note: If your children will likely have a taxable estate (i.e. an estate is excess of \$1.5 million), then it might be wise to consider generation skipping planning. Please explain the nature of your children’s current or expected assets: _____ _____ _____</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>

ASSET PROTECTION CHECKLIST

PENSION PLANS

Introduction: There are few areas of the law more complex or potentially catastrophic as the labor and tax laws that apply to pension plans. Because of the many weeks per year of study required for a good tax lawyer to keep current with pension law, many pension plans are drafted by pension plan specialists or companies who have full time, in-house pension plan counsel. Unfortunately, signing a mass produced pension plan and funding the plan is not enough to protect the plan from disqualification. The plan must be properly administered and kept up to date. The IRS has recently indicated that innocent oversights, such as failure to sign plan updates in a timely manner, can render a plan invalid even though the plan was always administered properly. If a plan is rendered invalid, then the asset protection benefits typically associated with the plan may be lost.

Probably no area of income tax law threatens more physicians than the potential taxes, interest and penalties that can result from non-compliance with the very complex legal requirements imposed on pension plans. Many physicians wrongly assume that plan maintenance is being carried out properly, when in fact it is not.

Yes **No**

1. Do you maintain proper plan documents? Pension plan and Trust Agreement must be in existence from the effective date, and must be kept current with applicable tax law. Failure to have proper plan documentation at the proper times can disqualify a plan.	<input type="checkbox"/> <input type="checkbox"/>
2. Is your plan properly administered? Proper funding, accounting and maintenance of accounts is essential to the continued viability and non-disqualification of a plan. Actuarial reports are required for defined benefit plans. Proper filing with the IRS for applicable determination letters at the time of termination or transition in a plan may also be essential.	<input type="checkbox"/> <input type="checkbox"/>

<p>3. Do you have a policy in place to assure compliance with non-discrimination rules? Do you have a method in place for making certain that fiduciaries are complying with their investment duties?</p> <p>Complicated and sometimes harsh rules require that many individuals be included in the plan, and that contributions not discriminate except with respect to certain safe harbors. Rules with respect to employee leasing, affiliated service groups, and commonly owned entities apply. Some rules go so far as to suggest that a physician who performs many procedures at a hospital might have to have hospital employees on that physicians' pension plan. Strict and complicated rules control plan loans and related party transactions.</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>4. Do you a method in place to make certain that your plan is maintained in compliance with all applicable rules? Please describe that method: _____ _____ _____ _____</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>5. Are determination letters and other status reports filed with the Internal Revenue Service and the Federal Department of Labor on time? Have all Form 5500's been properly prepared and filed? Are all plan contributions and finances properly monitored by the Plan Administrator? Please describe how these items are maintained. _____ _____ _____</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

ASSET PROTECTION CHECKLIST
PLANNING FOR SPECIAL ASSETS

	<u>Yes</u>	<u>No</u>
<p>1. Are you the owner (i.e. the title-holder) of any vehicles? If so, who is the primary driver of this vehicle? _____</p> <p>Have you reviewed your auto insurance coverage to make certain it is adequate? Note - under Florida law, an automobile is a “dangerous instrumentality,” which means that the owner of an automobile will be held strictly liable for the negligence of the driver.</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<p>2. Do you own the house where you currently reside? If so, how is this house titled? _____ How long have you lived in this house? _____</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<p>3. Do you own any real property (other than your homestead property)? Is this real property “business use” (i.e. commercial) property? Please describe how title to this property is held: _____ _____ _____</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<p>4. Do you own any residential real property (other than your homestead property)? If so, what is this property used for? _____ How is it titled? _____ _____</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<p>5. Do you own any joint bank accounts with your spouse? Do you have any joint brokerage or investment accounts with your spouse? Briefly describe the nature of the joint accounts that you own with your spouse. _____ _____ _____</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

<p>6. Are you and your spouse jointly obligated on any debts or loans? Briefly describe the nature of these joint debts. _____ _____ _____</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>
<p>7. Are you currently liable under the terms of any loan agreements? Have you guaranteed repayment of any loans? If so, please describe the nature of your loan guarantee: _____ _____ _____</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>
<p>8. Do you currently have life insurance in place insuring your life? If so, please provide the following information regarding this life insurance: Face Value: _____ Approx. annual premium: _____ Who is the beneficiary? _____ Name of insurance company: _____ *Note - if you own more than one life insurance policy, please provide information on additional policies on the bottom of this page.</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>
<p>9. Do you currently own an annuity policy? If so, please provide the following information regarding this policy: Face Value: _____ Name of annuitant: _____ Who is the beneficiary? _____ Name of insurance company: _____ *Note - if you own more than one annuity policy, please provide information on additional policies on the bottom of this page.</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>

<p>10. Do you receive a salary paid at regular intervals? If so, who is your employer?</p> <hr/> <p>Where are your payroll checks typically deposited?</p> <hr/> <p>What type of account is this?</p> <hr/> <p>Do you provide more than one-half of the support of a child or other dependent? If so, Florida law considers you the “head of the household” and your wages may be exempt from garnishment. Are your wages controlled under the terms of an employment agreement?</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>

ASSET PROTECTION CHECKLIST

PLANNING FOR SPOUSES

	<u>Yes</u>	<u>No</u>
<p>11. Are you currently married? If so, for how long? _____ Is this your first marriage? If not, briefly state the dates and reason for termination of your prior marriages: _____ _____ _____</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<p>12. Do you or your spouse have any children from a prior marriage? Briefly list the names and ages of all such children: _____ _____ _____</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>13. Do you currently have a valid Last Will and Testament in effect? Is your spouse the sole beneficiary of your assets? What are the general terms of your Will? (If you cannot provide a copy, please state the general terms below) _____ _____ _____</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<p>14. Is your spouse the beneficiary of your retirement accounts? Is he/she the beneficiary of your life insurance? Are most (if not all) of your assets held in joint name with your spouse?</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>15. Are you and your spouse jointly obligated on any debts, loans or other types of liabilities (other than your home mortgage)? If so, please explain: _____ _____ _____</p>	<input type="checkbox"/>	<input type="checkbox"/>

<p>16. Do you have creditor protection concerns regarding your spouse's assets? Are you concerned about your spouse inheriting your entire estate outright? Would you prefer that (after your death) your assets be placed in a creditor-protected trust for the benefit of your spouse?</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>17. Does your estate plan provide for the creation of a By-Pass Trust (sometimes called a "credit shelter trust") to take advantage of the current estate tax exemption amount?</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>18. Have assets or beneficiary designations been properly coordinated to fund the By-Pass Trust?</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>19. What happens to assets in excess of the amount that passes free of estate taxes? Do these go outright to the surviving spouse? Do they pass into a Marital (or QTIP) Trust?</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>20. Is your spouse the sole trustee of the By-Pass Trust and/or Marital Trust? Note: certain creditor protection benefits may be lost if he or she is the sole trustee of these trusts.</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>21. If your spouse survives you, does he or she have a limited Power of Appointment over assets held in trust for the benefit of your children? Note: A Power of Appointment would allow the surviving spouse to create creditor-protected trusts for the benefit of your children, even if you do not choose to create such trusts now.</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>22. Have your estate planning documents been reviewed recently? If so, when was the last time they were reviewed?</p> <hr/> <p>There were significant revisions to the estate tax law in 2001. Have you analyzed the effect of these revisions on your estate plan?</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>23. Do you currently have a revocable living trust in place? Note: a revocable living trust is a device to avoid probate and guardianship proceedings. It generally does not provide creditor protection planning advantages.</p>	<input type="checkbox"/> <input type="checkbox"/>

<p>24. Have you ever created an irrevocable trust? If so, please describe the terms of this trust (or attach a copy)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>
<p>25. Do you have a Power of Attorney (for financial matters) in place? Do you have a Power of Attorney (for health care matters) in place? If so, when were these documents executed?</p> <p>_____</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>

ASSET PROTECTION CHECKLIST

MALPRACTICE INSURANCE PLANNING
(for Physicians Only)

Introduction: As a general rule, malpractice insurance is and should be the first line of defense to protect professionals against malpractice claims. Florida Statute Section 458.320 currently requires that a physician who does not have staff privileges at a hospital maintain minimum coverage of \$100,000/\$300,000. A physician with staff privileges at a hospital must maintain minimum coverage of \$250,000/\$750,000. For those with staff privileges, the first number (i.e. \$250,000) indicates the minimum required coverage per incident. The second number (i.e. \$750,000) indicates the aggregate coverage required for up to 3 incidents per year.

	<u>Yes</u>	<u>No</u>
1. Do you currently have malpractice insurance in effect? What are your current coverage limits? _____ What is the current cost per year to maintain this coverage in effect? _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
2. If you have no coverage currently in effect, have you made financial provisions (as required by law) for the payment of a judgment of up \$250,000? If so, please describe the nature of those provisions: _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
3. Are you a member of one or more healthcare networks? If so, do any of the networks mandate that you carry a certain minimum amount of professional liability insurance coverage? What is the amount of coverage mandated by these networks? _____ _____ _____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

<p>4. Florida law currently requires that a physician who goes “bare” (i.e. has no insurance coverage) must post a sign in his or her reception area indicating that there is no coverage in effect. Do you think that the posting of such a sign will have a negative impact on your clients or the conduct of your practice?</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>5. Do you have any sort of agreement in effect with your patients under which they agree to arbitrate any claim against you?</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>6. Are accounts receivable a significant asset in your practice? Please list the your accounts receivable balance as well as the balance as of the end of your two immediate prior fiscal years. Approximate current balance:</p> <p>_____</p> <p>Prior year #1 balance:</p> <p>_____</p> <p>Prior year #2 balance:</p> <p>_____</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>7. Do you have significant fixed assets (such as medical equipment, sophisticated machinery, furniture or fixtures) in your practice? Please describe the nature and approximate cost of these items:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>8. Does your medical practice own the real estate where the practice is located? Please describe the exact manner in which title to the real estate is held: _____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>Please attach a copy of the real estate deed.</p>	
<p>9. In terms of the likelihood of malpractice claims, would you rate your field as “high risk”? Please explain on the lines below</p>	<input type="checkbox"/> <input type="checkbox"/>