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**PROFESSIONAL CORPORATIONS – REMEMBER TO
RUN THEM LIKE A BUSINESS**

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Most physicians properly focus their attention on quality professional services to their patients and dealing with the billing bureaucracies that face physicians today. Unfortunately, physicians often fail to pay careful attention to some of the business aspects of their practices, which can result in catastrophic financial issues and expensive litigation.

In a recent case decided in Cleveland, the Court of Appeals analyzed in detail a professional corporation where the failure to pay attention to the details of the business and corporate practice resulted in a protracted lawsuit, involved significant amount of damages and certainly created a no-win situation for the physicians involved. The case of *Abrams v. Siegel*, 166 Ohio App.3d 230 (2006), is almost a textbook example of things that went wrong in a business relationship between professionals. The case serves as an excellent training lesson of things to avoid.

Employment Agreements. The employment agreements with the physicians contained a minimum annual salary for all physicians, but failed to take into consideration the financial impact on the practice if a physician unilaterally reduced his practice hours, expanded his time off and thereby significantly reduced his economic contributions to the group. The failure to reasonably plan for those contingencies created a significant dispute within the practice.

Building Lease. In the case, one physician who had began the practice, had separately owned the building in which the practice was located. As additional physicians joined the practice, they appear not to have been given an opportunity to become owners in the office building. A significant dispute arose between the physician who owned the building and his partners in the professional practice as to whether the rent charged for the building was excessive and the economic impact on the practice by virtue of the lease terms. The case was even more complicated where the building-owning physician had represented to the other physicians that there had been a change in the lease for the betterment of the practice, but, in fact, the change had not occurred and because the building-owning physician controlled the checkbook, they continued to pay higher rent over time, which went undetected by his partners.

Business Opportunities. Although not a significant issue in the case there was a discussion of whether one of the physicians in the group had breached his fiduciary duties

to the group. While physicians are generally free to engage in such business activities as they chose, this added element created additional conflict in the setting. This issue can arise where one physician elects to pursue a practice related business matter and not at least offer their partners the opportunity to participate in the venture.

Court Decision. After extended litigation, the court held that the physician who owned the building had withdrawn from the full-time practice, did have a significant financial obligation to the other physician shareholders and because of the nature of the conduct, the court also awarded attorney's fees in favor of the physicians who won the case.

Recommendations. While the *Abrams* case reflects some extreme circumstances, it does highlight the need for careful planning on the business and corporate side for professional practices. We encourage physicians to use experienced legal counsel to draft agreements that take into consideration issues that can arise in a professional practice. There is no "one size fits all" approach to working with professionals and through careful advanced planning, significant business disputes can be avoided. Just as physicians encourage their patients to have regular check-ups and early testing to detect significant medical problems, so to should physicians seek to have early detection and treatment of legal issues at a stage where they can be managed at a reasonable cost.

If you have any questions concerning the case or would like a copy of it, please contact Scott P. Sandrock, spsandrock@bmdllc.com, phone: 330-253-4367.