

Unemployed!

Call it fired, downsized, or faced with the collapse of your practice. Whatever the cause, if you didn't plan it, unemployment can be scary. The good, bad, ugly, and—yes—beautiful consequences of finding yourself out of a job.

LEIGH LOPRESTI, MD, WAS POLE-AXED TO hear the two worst words in the English language: You're fired. The Vermont medical group admittedly cut the family physician loose because he didn't generate enough revenue for the practice. He has plenty of company. Mark Abruzzo is a partner with Wade Goldstein Landau and Ebbersoe law firm in the Philadelphia area. His anecdotal estimate is that at least 50 percent of physicians find themselves unemployed from their first medical job.

It happened to Joseph Scherger, MD, who was terminated as the dean of the medical school at Florida State University when a new provost arrived. Even solo practitioner Baretta R. Casey, MD found herself without a job when the paperwork revealed it cost her \$20,000 more than she made from the family practice in rural Pikeville, Kentucky. "Yes, I am a physician, and my main goal is to care for patients the best possible way, but you still have to keep the doors

open," she says of her forced closing.

Doctors find themselves pounding the pavement for the same reasons as any other executive: Today's tough business environment means if operational goals and strategies don't pan out, sayonara. Other times, personalities clash and someone has to go. "We've obviously heard a lot of different stories. As long as those situations aren't dangerous, this indus-

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try treats layoffs just like any other marketplace," says Paul Smallwood, a vice president of Cejka Search, a physician search firm in St. Louis.

Scherger agrees. In his observation, "Divorce is very common in medical careers, probably more so than in marriages." Scherger says.

The good news is that if you keep your head, you're likely to land in even better circumstances. LoPresti, for instance, opened a solo practice in the same town and forced his former group to compete against him, and he takes credit for driving them out of the market 18 months later. "I enjoyed that immensely," he says.



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Practically speaking

Two-thirds of the time, the atmosphere surrounding a dismissal doesn't involve a lot of dispute, says Abruzzo. "It's a little awkward for a while, but the parties go their separate ways. Most of the time, the doctor leaves town, and frankly just wants to make sure the patients in the pipeline are taken care of."

That's the outcome. But making sure everything stays on track to that point does require conscious decisions. Physicians personally and the medical profession as a whole have a lot to learn, according to John-Henry Pfifferling, PhD, the director of the Center for Professional Wellbeing in Durham, North Carolina and a clinical associate professor at the University of North Carolina. "What we've done terribly is what the corporate world

does beautifully: Any time you have a job, you develop an exit strategy and contingency plan," Pfifferling says. "That's the furthest from the truth for the average doctor. When I ask them about their contingency plans, they respond, 'Excuse me? I'm a cardiovascular surgeon.' Now on average 50 cardiovascular surgeons apply for one opening, and they don't have an exit plan? That's not good reality testing."

• CONTRACT TERMS

The first step, Cejka professionals say, is to pause a few days before delving into any aspect of severance packages, and round up your attorney, CPA, and career coach to get your ducks in a row.

LoPresti lucked into his severance deal. His first group handed the young doctor a contract stipulating 180-day notice of termination, so he

Baretta R. Casey, MD believes the loss of her practice in Pikeville, Kentucky made her a stronger advocate for patients.

accepted that as standard. He consequently insisted on those terms in future employment contracts, including the one he signed with his Vermont employer. According to Abruzzo, the most common terms are 80 to 100 days. LoPresti, who currently serves as a faculty member with the residency program at the Medical College of Wisconsin, advises his students to negotiate the 180 days to buy enough time to look for that next job and clear the necessary paperwork before they begin practicing again.

While you're at the pre-hiring negotiation table, follow LoPresti's

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✓ Unemployment's true danger lies with a physician's emotional response.

In the Meantime

When Joseph Scherger, MD, was fired from his post as the dean of the medical school at Florida State University in March 2003, he negotiated a five-month severance package. But he didn't want to remain idle during that stretch, so he applied for a job covering for a family physician who had been disabled in an accident. Scherger ended up with between 25 and 30 percent of that doctor's patient load—a move that bought him still more time to assess his next job. All in all, he took nearly a year before reporting to his next job at the University of California-San Diego.

Locum tenens organizations rely on folks like Scherger to fill their ranks. These temporary work assignment groups are particularly great for physicians who lack a

solid idea of where they want to be or the type of practice they wish to join, says Katie Abby, the chief operating officer for Vista Staffing Solutions in Salt Lake City, Utah, and the president of the National Association of Locum Tenens Organizations, headquartered in Altamonte Springs, Florida.

"First of all, it gets them into a position of generating income. Second, so many of our clients use locum tenens services as a way to recruit for permanent staff—a test drive before committing long term," Abby says.

Assignments vary from private sector to government contracting with the Indian Health Service or the Department of Veterans Affairs, and the average assignment lasts four to eight weeks.

Physicians, naturally, can limit their involvement by practice type or geographic area. Pay is lower than what physicians typically earn in the marketplace, but the medical facility picks up transportation, housing, and any state licensing fees. The locum tenens malpractice insurance policy covers the work physicians do for the organization.

This is not, however, a way to hide your unemployed status. "Locum tenens work is not the place for a physician who has problems or bad issues in their background," Abby says. "Certainly being dismissed from a position may not disqualify you, but you can expect to explain your situation in every location you go, much as you would when you apply for a job." ■

lead on the non-compete clause and further prevent hassles when you part company. Yes, a vast majority of states do allow non-compete clauses, and regardless of chatter on the street insisting these are unenforceable, doctors will need to abide by them at the point of unemployment or face the legal route to straighten out the dispute. That fight, says Abruzzo, can easily cost \$150,000 to \$200,000 out of pocket. "It's an expensive way to get an answer," he says.

The typical non-compete clause states the physician may not practice in any way shape or form directly or indirectly within a 10-mile radius, but the distance can vary by region. In a dense population, it is sometimes measured in blocks; in the wide open ranges of New Mexico it could be by county, which is closer to 50 miles. When LoPresti asked his group its reason for the non-compete clause before contract signing, the partners pointed out they didn't want to shoulder the expense of establishing a new doctor only to have him quit and leave them with nothing but bills. He instantly saw the business logic.

"But if they fired me for whatever reason, I didn't think I should have to pick up my family and move if I'm happy practicing in this place," he says. The group agreed, and the two parties worked out a compromise: If LoPresti left voluntarily, the non-compete clause would be in effect. If they initiated the split, he was free to practice as he chose.



Although he stresses this with every new doctor, Abruzzo warns physicians they haven't completely cleared the "gotchas" yet. Most contracts also throw in non-solicitation (you can't solicit patients or staff to follow you) and confidentiality agreements that state the patients' charts, including phone numbers, belong to the group. "It's never going to be easy to walk away and start up a practice with patients you've been seeing," Abruzzo says. Even if you negotiate all of these areas favorably, "you still can't take practice information because there are common laws that protect the practice from being raided by you."

Finally, you and your former colleagues need to decide on how to communicate about the situation, says Scherger. "You want to put a good face on it that allows you to say, 'We simply decided we couldn't

Leigh LoPresti, MD, who currently serves as a faculty member with the residency program at the Medical College of Wisconsin, advises his students to negotiate for a 180-day notice of termination to buy enough time to look for that next job and clear the necessary paperwork before they begin practicing again.

work together any more,'" he says. He recommends drafting a letter of understanding that the group will not blackball you, or it will face serious consequences.

• **FINANCIAL ADVICE**

Unemployed physicians commonly trudge into Jerry Yeager's office with a dark cloud hovering above their heads. "The whole world is caving in, but this is not the end of the world," says the CEO of SYM Financial Advisors, a high-net worth financial advice firm headquartered in Warsaw, Indiana. "We try to give them a bit of perspective and go into this first meeting ready to roll up our sleeves and

get a plan in place." He shoots for a six-month blueprint to keep his clients calm, but the truth is most doctors bank their next paycheck before that.

The obvious lecture, of course, is to avoid living beyond your means in the first place, and have six months' worth of income sitting in a liquid asset form. In the real world, that's next to impossible, particularly for young physicians, and that's why Yeager warns unemployed physicians not to roll over their 401(k) retirement money into an Individual Retirement Account (IRA) right away. Many 401(k)s come with a loan option you can

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take advantage of for quick cash. However, don't simply cash in the 401(k)—that desperation move will cost you a 10-percent penalty with Uncle Sam in addition to the income taxes.

Certainly register with your state's unemployment office immediately (some states even allow phone or Internet registration). The benefits, albeit small—Yeager's state caps them at \$390 a week—may not kick in for several weeks after your last paycheck, but the paperwork takes that long to clear, particularly if the practice fights your claim.

Then there are outstanding receivables and yearly bonuses you can scabble over. Again, how well you managed your own career paperwork makes the difference. "Most contracts don't really address the issue very well upon termination," Abruzzo says. It leaves plenty of room for argument: Say you were to receive a percentage bonus if you exceeded \$200,000 in billings, but you were fired on July 1 with \$100,000 credited to your practice. Practically speaking, you were on pace—but that doesn't mean the practice will fork over a prorated bonus.

"It comes down to leverage. If you are leaving for another state, do you want to fight a battle that requires returning?" says Abruzzo. "If it's not a big amount—say \$4,000 or \$5,000—I advise you write a strong letter threatening to go after it, but at the end of the day, focus on your new life and kiss it good-bye." If you choose to pursue it, most attorneys will want copies of your billings.

Even receivables from a solo practice aren't guaranteed. Casey ate \$250,000 in outstanding bills she was

unable to collect—a sum she couldn't even write off as bad debt on her taxes since the IRS categorizes health care as a service rather than a product. "And once you close the practice, you have no recourse to recoup that money," she says.

Finally, many physicians take temporary positions to bridge the financial gap. (See "In the Meantime.")

• INSURANCE

Welcome to the biggest logistical nightmare in medicine: terminating your malpractice insurance and paying the tail. When Abruzzo entered the health-care legal arena 16 years ago, practices picked up the tail coverage like gentlemen, but the actual policy has always belonged to individual physicians. In today's competitive business environment, most contracts say the dismissed doctor takes this responsibility. After all, specialists such as orthopaedic surgeons can be on the hook for as much as \$75,000 to \$125,000. Even general practitioners can cough up between \$10,000 and \$15,000 to pay their tails.

So immediately call your insurance carrier to inquire the cost of your tail should you terminate the policy. You have approximately 30 to 60 days to take action, and often that payment can become part of the hiring package at your next job. Of course, if your former employer had Abruzzo for an adviser, it wrote into the employment contract the ability to cancel the policy itself. "Many groups say, 'We won't let you take your insurance with you because what if that next job doesn't work out and you walk away without paying the tail? Then we're really

exposed.'

"It's like a game of chicken," Abruzzo says.

The good news, however, is that your chances of remaining on the same insurance panels without interruption should you stay in town are excellent, at least in Abruzzo's experience.

• NETWORKING

Again, the matter of location rears its head—do you want to move or stay? Sometimes, that's almost a foregone conclusion. For instance, if your layoff involved several physicians, the chances of remaining in town are lower, Cejka professionals say. They once dealt with a dozen doctors on the street in the same city at the same time, and couldn't help any of them when they refused to move. Physicians in these shoes need to rethink career options altogether.

Scherger, on the other hand, used his unemployment status to jump at the chance to leave Florida for a locale more suited to his tastes. He and his wife eventually settled in Southern California when he accepted a job as a clinical professor of family medicine at the University of California-San Diego.

It's a mistake if your CV continues to list your status as employed from X to present, says Cejka's Smallwood. You need to update the paperwork to reflect your status, or the inevitable background search will rat you out and send up red flags. Once face to face, stick with an accurate but concise story—"This is my situation, this is what occurred, and I can provide references to verify this"—and have your attitude firmly under control.

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“When we’re asking questions, we want to hear positives versus blame or excuses,” Smallwood says. “Frame it as ‘It was the right setting for me, however...’”

Emotional upheaval

Unemployment’s true danger lies with a physician’s emotional response. As Scherger admits, “It’s devastating. It’s a shock to be in a job you’re excited about and suddenly your professional rug has been swept right from under you.”

Pfifferling has a fancy psychological term for it: enantiadromia, or the ego’s association with the job as who you are. “So doctors perceive unemployment as a disappointment at the least and a failure most commonly. And they’re most poorly prepared emotionally for dealing with failure” compared with other occupations, he says.

Casey describes her ordeal as a grieving, where she cried with every patient she told the news. LoPresti says he was initially angry but a few days later found he was happy to be rid of a bad situation. “Then there was fear, as in ‘What am I going to do?’ Even when I decided to go into private practice—gulp! Now it was my money on the line,” he says.

The entire gamut is normal in the first blush, counselors say. Pfifferling is in favor of career coaching to ensure you don’t slide from normal to emotionally scarred. Unfortunately, too many physicians either veer off into hypercritically flogging themselves or they cast blame. The first group wears the loss as if it were stigma branded across their foreheads. These doctors run themselves into the ground to please their next em-

ployer and “fix” the past. Blame casters refuse to take any responsibility: Someone was threatened by me. Someone lied on my review. I’m Irish and they wanted Indian physicians.

Pfifferling admonishes both types not to give away their power in these ways. Scherger seconds that sentiment. “A lot of doctors live a charmed life—we have a high income after training and things are comfortable for us. So that sudden, unexpected job loss is a very sobering thing. It humbles you, it makes you more realistic.

“But you can’t let it disrupt your personality or leave you cynical. You just have to be a trooper, regroup, pick yourself up and carry on,” Scherger says.

Beware, too, the job search scars. How you react to many of the contract negotiations can earn you labels like “outlier,” “impaired,” or “disruptive.” In an industry where lawsuits of any kind strike fear in practitioners’ hearts, few people want to deal with a troublemaker or litigious person. Pfifferling often finds himself as a third-party mediator in resolution disputes precisely to keep physicians from winding up in the legal halls.

Surprisingly, he has an ally in Abruzzo. This attorney, too, tells his clients who feel they have a grievance that it’s usually best to go quietly into the night. “You have to worry about your future and your reputation,” he stresses. “My advice is to focus on getting established somewhere, and then if you want to pursue a lawsuit, explore it.” Most contractual issues may be challenged anywhere between three and five years out.

“The last thing you want is to be perceived as a bad apple, a whistleblower, or a loudmouth. Any practice would have second thoughts about hiring you, so the high road is always best,” Abruzzo says.

That doesn’t mean shun legal professionals altogether. Scherger, for instance, hired an attorney to negotiate a five-month severance package. Just draw the line between the boardroom and the courtroom.

And count on the unemployment event to shore up your skill as a doctor. Casey believes her practice’s “failure” transformed her into a stronger advocate for patients. She currently works for the University of Kentucky at a family medicine clinic in Hazard, overseeing the rural family medicine residency program there. LoPresti discovered that his instincts for how to practice medicine did make economic sense.

“You don’t have to believe that everything happens for some divine reason,” Scherger says, “but that doesn’t mean you can’t take this crisis and turn it into an opportunity. It’s up to you to figure out how to make the most of it.” ■

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