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Basking in the Moonlight

While making a little extra cash through moonlighting is a great way to fund holiday expenses, be sure to check your contract and insurance provisions first.

WITH THE HOLIDAYS JUST around the corner, everyone—physicians included—is in need of a few extra dollars to purchase those special gifts for loved ones and friends. Increasingly, physicians of all specialties and years of experience are considering “moonlighting” as a way to support their income. However, there are important legal issues and opportunities that a physician must consider before accepting a supplemental position.

Resident moonlighting

In the most traditional sense, moonlighting is the unsupervised practice of

medicine by residents before the completion of residency. Resident moonlighting remains a divisive issue. On July 1, 2003, the Accreditation Council for Graduate Medical Education (ACGME) common duty hour standards went into effect for all accredited residency programs. These ACGME rules include the well-known requirement that a resident have a work week no longer than 80 hours, averaged over a four-week period.

The ACGME policy has a specific section devoted to moonlighting. The section on moonlighting notes

that, “Because residency education is a full-time endeavor, the program director must ensure that moonlighting does not interfere with the ability of the resident to achieve the goals and objectives of the educational program.”

Importantly, the moonlighting policy only addresses “internal” moonlighting. The ACGME policy states, “Any hours a resident works for compensation at the sponsoring institution or any of the sponsor’s primary clinical sites must be considered part of the 80-hour weekly limit on duty hours.” The ACGME policy ensures that the same standards apply to all residents in teaching institutions and is designed to protect residents from po-

tential abuse by teaching institutions. The ACGME rules do not directly address external moonlighting for a third party, as the organization does not have purview over residents’ activities outside of their educational program.

Types of jobs

Many physicians are entrepreneurial. Because medicine is a big business, an entrepreneurial physician may be able to take advantage of her knowledge and training in non-clinical settings. This may include developing medical billing software, creating and refining medical devices, establishing ancillary ventures, regularly speaking to other physicians on behalf

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of a company, or providing expert testimony in a litigation context. The non-clinical opportunities for moonlighting are plentiful if they interest you. In addition to the intellectual stimulation you can receive from these “part-time” ventures, these activities might be financially lucrative.

There also is a wide-range of opportunities for clinical moonlighting. In-house moonlighting physicians are needed in many hospital settings to manage general medical floors, intensive and progressive care units, rehabilitation floors, or emergency rooms, and to assist in the operating room. Medical admissions and as-needed or “prn” care are typical job functions of the in-house moonlighting physician. Outpatient moonlighting positions include staffing private primary and specialty care offices, academic medical clinics, and state- or county-run health facilities. Other clinical opportunities for moonlighting include serving as team physicians for high school or college sports teams.

How to find jobs

Although advertisements for full or part-time medical positions flood physicians’ e-mail accounts, office bins, and home mailboxes, moonlighting opportunities can be a bit more difficult to ferret out. Specialty journals, state society newsletters, and national professional magazines are a good starting point. Physician recruiters are another resource for finding a job moonlighting. Those same publications, the Internet, and even telephone directories will assist you in finding physician recruiters in your region. Typing in phrases like “physician moonlighting” or “moon-

lighting hospitalists” will land hits on Web pages for companies and hospitals that offer moonlighting positions.

Word of mouth, however, may be your best source for finding a spot moonlighting. Contact your local primary and specialty care offices, hospitals, clinics, and other physicians for opportunities in your field. Ask nurses, pharmacists, pharmaceutical representatives, friends, or family members for potential leads. Follow the moonlighting footsteps of graduating residents leaving your program to pursue post-graduate employment or fellowships. If you are interested in supplementing your income with another clinical job, be aggressive, persistent, and think creatively about how your skills can benefit an employer on an intermittent basis.

Legal issues

If you are still in a training program, any internal moonlighting you provide must be approved by your program director. If you would like to engage in external moonlighting, make sure your opportunity is consistent with the requirements of your sponsoring institution. Different programs have different policies. In addition to reviewing all of the institution’s relevant policies, your program director should be a good resource to confirm that your moonlighting work is in compliance with the program.

If you are already in practice—in an institutional setting, private practice, and/or some combination of the two—review your current employment contract(s). The contract should address whether or not, and on what conditions, you can moonlight. Be sure to review your employ-

er’s policies and procedures as well because they might include specific provisions and restrictions for moonlighting.

For instance, your employment contract might state, “While employed by Employer, any remuneration generated by Employee shall be solely that of Employer.” Your initial reaction might be not to give this sentence a second thought. Compensation for any clinical services you provide in the employer’s office should be retained by the employer, and in turn, you will be provided your salary and potentially a bonus. However, if you re-read the contract language, you’ll see that it is not limited to work you do for your employer; it states “while you are employed by employer.” Anything you do on your own time for which you earn money is not necessarily excluded. The term “remuneration” can also be broadly defined and may not be limited to cash. In addition, the provision is not limited to clinical activities. The honorarium that a pharmaceutical company offers you for an evening lecture could become the property of your employer. Hence, your compensation from moonlighting may not be yours if you have such a phrase in your contract.

Other employers might include very specific language about what constitutes moonlighting—clinical and non-clinical—and the approval process necessary prior to the employee engaging in any moonlighting. Employers often develop these policies if they believe they were taken advantage of or not adequately informed of an employee’s moonlighting activities.

If you are going to provide clinical

services as part of your external moonlighting, be sure that you or your moonlighting employer have secured appropriate professional liability coverage. The insurance provided by your primary employer will likely not protect you from any liability for your professional activities while you are not working directly for that employer. If the moonlighting employer provides claims-based professional liability coverage, be sure you make arrangements for your "tail" coverage once you are no longer moonlighting for that employer.

It is also important, and prudent, that you execute a written contract with your moonlighting employer for both clinical and non-clinical activities. While the contract may not be as long and detailed as your primary employment contract, it should delineate your and the employer's rights and responsibilities and the amount and frequency of your compensation. You should ensure that the arrangement provides you with the necessary flexibility in the event that your primary employment responsibilities change.

Short and long-term benefits

Cash in hand is the main short-term benefit of moonlighting. Most, if not all, moonlighting employers will hire you as an independent contractor and will pay a lump sum gross payment for your services. Taxes will not be taken out of your paychecks. Make sure you consult with your accountant about the tax benefits and responsibilities associated with independent contractor relationships.

The long-term benefits of moonlighting include medical and/or business experience that may add to

your educational portfolio, line items to fill your curriculum vitae, and most importantly, a possible segway into a future employment or entrepreneurial opportunity.

For many physicians, clinical and non-clinical moonlighting is a lucrative means to supplement their incomes. Your professional experience will become more diversified and your network of professional contacts can expand exponentially. If you have taken the necessary legal protections before accepting an off-hours position, you can then share the extra cash with your family and friends during the holidays...or all year long! ■

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