

**The Physician and the Shareholder
Agreement**

Practical Guidelines

CASE STUDIES

a presentation for

NJ- Institute for Continuing Legal Education

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I. Introduction

- A. Purposes of Shareholder Agreement
 - Mechanism for transferring, selling and valuing the shares
 - Process for decision making and managing the practice
 - Financial relationship among the physicians



- B. “Close” or “closely held” Corporation

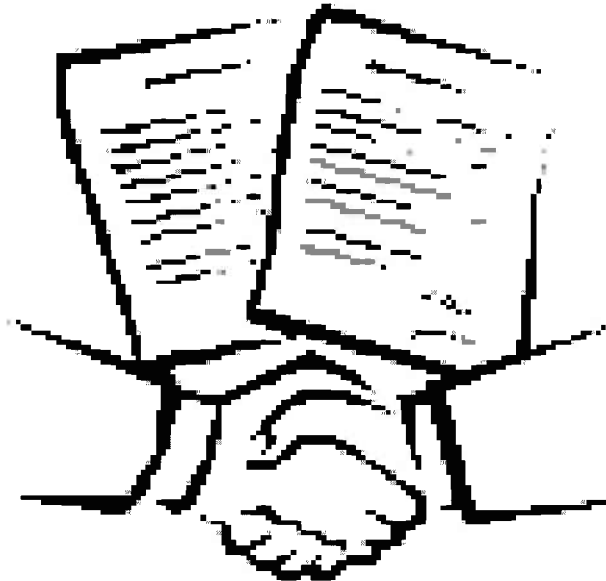
II. Legal Background

- No 'prescription' for Shareholder Agreements
- A. The Business Corporation Act, N.J.S.A. 14A: 1-1 et seq.
- B. The Professional Service Corporation Act, N.J.S.A. 14A:1' 1 et seq.
- C. The New Jersey Board of Medical Examiners Regulations, N.J.A.C. 13:35-1.1 et seq.



III. General Principles

- A. Representation of the Client
 - Who is the Client?
- B. Due Diligence
 - Obtain Documents
 - Engage Accountant



IV. Drafting Tips

- Ascertain the expectations of the parties.
- Agreement is consistent with all other corporate documents.
- Consider all of the triggering events for a buy/sell event
Ensure terms are defined, e.g., “doctor’s minimum production.”
- View becoming a shareholder from two perspectives – that of the individual physician and that of the member of the practice.



V. Anatomy of the Shareholder Agreement

- A. Introduction
 - Recitals - Naming parties Agreement
 - Whereas Clauses
- B. Purpose of Agreement: Restriction of Shares
- C. Endorsement on Stock Certificate



V. Anatomy of the Shareholder Agreement

- D. Events Triggering the Obligation to Transfer Shares
 - Death
 - Disability
 - Retirement of the Shareholder
 - Voluntary Withdrawal by the Shareholder
 - Termination of Shareholder by the Corporation



V. Anatomy of the Shareholder Agreement

- E. Determining the Price for the Shares
 - Specified Price
 - Book Value Formula
 - Appraisal at Time of Sale
 - Multiple of Earnings
- F. Determining the Purchaser of the Shares
 - Redemption Agreement
 - Cross-Purchase Agreement
 - Hybrid Agreement



