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Dr Janette Stening, Practice Manager,
Doctors’ Health Fund Member since 2007
Let’s be honest, without passion in our lives we are merely existing – not really living.

For much of humanity, this is a first world problem. For countless millions, life is a daily struggle and the pursuit of ones passions is a luxury afforded those fortunate enough to have been born to the right people in the right time and place.

I get that, and it’s not without a certain sense of guilt and privilege that I continue my thoughts on this subject...I must say, these feelings are slightly balanced by much of what I am passionate about.

Let’s take 5 minutes, right now as you’re reading this message to take out a pen and paper (very old school of me) and make a list of the things you are passionate about.

Really stop and think about this – empty your mind of the noise it is filled with and focus on what you are truly passionate about...or perhaps what you used to be passionate about before the pressures of life overwhelmed your dreams.

I have done this exercise several times and at least once in a very detailed and considered fashion, in a large group, as part of a ‘self-development’ workshop.

Everyone’s answers were, of course, personal and individual yet remarkably similar, with common threads around mastery of knowledge and skills in personal pursuits as well as service to others, and making a difference.

So, what does your list look like? Does the above experience ring true for you?

More importantly, is your life, (business, financial and family) structured in such a way that allows you to realise and live your passions NOW ?!

If not, you need to seriously ask yourself, why not?

What pieces of the puzzle are missing and how do you find them, create them, allow them in to existence – often it’s as simple as an attitude shift.

More often than not the key lies in more effective control of our environment brought about by a better understanding of our options through focussed education, guidance and action!

This is the message of The Private Practice program – empowerment to live your passionate lives now by operating and growing businesses, (as well as managing your finances) in a way that serve you, that provide leverage that buys you time to occupy your days doing what you want to do, not what you have to do.

For this recipe to work we have to accept a certain degree of re-invention in our lives – from clinician to business person to entrepreneur to philanthropist, and most importantly, family man or woman – in the broadest sense of these terms.

The themes, principles and strategies expanded on in this latest edition of our magazine are all pieces in the puzzle of the effective business and personal life.

We hope you enjoy our latest offering and look forward to welcoming you at events in our 2018 curriculum.

Steven Macarounas, Managing Editor
editor@theprivatepractice.com.au
EVENTS

8-10 September 2017, Sydney, The Private Practice
‘Comprehensive’ and Transition to Retirement Workshop
FINANCIALLY ENMESHED IN YOUR BUSINESS PARTNER’S DIVORCE

Daniel Kaufman is Special Council at Lander & Rogers.
When going into business with colleagues, commercial risk management is a key issue to address.

When deciding which business structure to adopt, medical practitioners may choose from a range of options, including partnerships, companies and trusts. Each type of business structure has distinct advantages in terms of corporate governance, taxation management and protection from certain commercial risks.

However, the protection offered by these corporate structures is limited and specific in nature. A broad gap exists, and little protection is afforded from the spectre of divorce, which has recently become an increasing focus in the area of corporate risk management.

Most people view divorce as a personal risk, associated with their own relationship, and under their own control. That may ring true, but it does not contemplate how you may be financially affected by someone else’s divorce, and namely that of a business partner.

The wide and deep powers of the family law courts in respect of ‘third parties’, means that people in business need protection not only from their own family law issues, but also from the family law issues of their business partners.

Consider the following:

- Between one-third and one-half of marriages and de facto relationships end in a separation which gives right to entitlements under the Family Law Act.
- Under the Family Law Act, corporate interests may be included in the matrimonial asset pool.
- De facto relationships give rise to effectively the same rights as marriages, but are somewhat loosely defined under the Family Law Act. A person can be in a de facto relationship and not realise it, or be in a de facto relationship at the same time as being married to another person.
- The Family Law Act gives the court power to make orders binding upon third parties, and altering the legal interest of third parties. That may include business partners, or corporate entities.
- The Family Law Act gives the court power to set aside transactions, including loans, transfers of shares, and partnership or security holder agreements, where such transactions may have the effect, irrespective of intention, of defeating a claim under the Family Law Act.

That may mean that if your business partner separates:

- His or her interest in your business is a matrimonial asset.
- His or her interest may be valued at a figure below, or above, what you consider it to be worth, which may financially affect you.
- The family law courts can ‘look behind the corporate veil’ and may, in appropriate circumstances, disregard or change strict legal interests as defined by corporate or property documents such as share and title certificates.
- The court can set aside or vary “transactions” such as loans, share transfers, trust deeds and securityholder agreements.
- The court can transfer a party’s assets, including corporate interests, to their spouse, which may impact co-investors and creditors.
- The court can cause companies or other entities to repay loans to parties to the marriage, regardless of whether that is financially suitable to the company to do so at that point in time.
- The court can order a party to sell his or her interest in a corporate entity to a third party, or to you, irrespective of whether or not that is commercially acceptable to you.
- The court can vest a discretionary trust, and cause it to distribute its capital in set proportions as if it were a fixed unit trust.
- The court can order your business partner to transfer his or her shares/entitlements to his or her spouse, who then effectively becomes your new business partner.
- The court may have cause to thoroughly examine the assets, income and expenses of your business, for example when assessing your partner’s income generating capacity or valuing the business.
- The court can, and does, refer taxation issues which may arise during the course of proceedings, to the Australian Taxation Office.

Daniel Kaufman explains how your business partner’s divorce may affect you and your practice.
THIRD PARTY POWERS IN DETAIL

Part VIIAA of the Family Law Act, empowers the court to make orders and injunctions binding upon third parties. The ambit of such orders or injunctions is wide. Key provisions within Part VIIAA include the following.

- Section 90AC of the Family Law Act provides that the court’s third party powers have effect despite anything to the contrary in:
  - “any other law”; or
  - “anything in a trust deed or other instrument”.

- Section 90AE of the Family Law Act gives the court power to make orders binding upon third parties, including:
  - “an order directed to a creditor ....to substitute one party for both parties in relation to a debt owed to the creditor”;
  - “an order directed to a creditor ......to substitute the other party ...to the marriage for that party in relation to the debt owed to the creditor”;
  - “an order directed to a creditor of the parties to the marriage that the parties be liable for a different proportion of the debt owed to the creditor than the proportion the parties are liable to before the order is made”
  - “an order directed to a director of a company or to a company to register a transfer of shares from one party to the marriage to the other party”;
  - “an order that...directs a third party to do a thing in relation to the property of a party to the marriage”; and
  - “an order that...alters the rights, liabilities or property interests of a third party in relation to the marriage”.

The Family Law Act provides some protection for creditors, and more generally provides that third parties must be afforded “procedural fairness”, which often amounts to the right to participate in court proceedings, albeit at that party’s expense.

Overall, the fundamental powers afforded to the family law courts in relation to third parties are both extraordinarily wide and deep. Furthermore, the wide breadth of judicial discretion in the family law courts reduces predictability of outcomes and complicates appeals.

In addition, the court process is slow, and can become inexorably delayed by the litigation behaviour of parties who are emotionally charged and are unwilling to compromise on even basic issues of fact and law.

Finally, the ability to successfully claim legal costs, and recover them, is limited in the family law courts.

WHAT CAN BE DONE TO PROTECT ME FROM SOMEONE ELSE’S DIVORCE?

Amongst all the troubles of other people’s relationships, the good news is that you can protect yourself, and your business, from this type of asset threat.

Corporate Australia increasingly recognises that family law issues pose a risk as great as civil law issues, but for which the traditional asset structures and insurance options offer little or no protection.

Directors who previously took little interest in their colleague’s relationship troubles, may now choose to employ a suite of protection measures to provide corporate stability, and thereby add value to a business.

In particular, two types of protection can be employed, ideally together, to insulate a business from a matrimonial dispute.

First and foremost, a Financial Agreement will exclude the jurisdiction of the family law courts. It is the gold seal of protection, and can be used to quarantine a company from any family law claim.

Secondly, corporate ownership
documents such as partnership agreements can be drafted so as to provide for a controlled manner of dealing with corporate interests in the event of a matrimonial dispute (or a broader partnership dispute).

FINANCIAL AGREEMENTS IN GREATER DETAIL

A Financial Agreement can be entered into prior to a marriage or de facto relationship, during the relationship, or after separation.

A “forward looking” Financial Agreement will set out how the parties’ assets are to be dealt with in the event of a later separation. It can also deal with issues of spousal maintenance.

Many people do not consider entering into a Financial Agreement because they believe it will be set aside, and it is only used as a tool to deprive a spouse of a fair share of the matrimonial assets.

Firstly, whilst a Financial Agreement may be set aside, just as any commercial contract may also be set aside, a Financial Agreement which has been properly drafted and executed is more likely to sustain legal challenge. The importance of doing things properly cannot be overstated.

Secondly, whilst some Financial Agreements seek to depart radically from the likely outcome in the family law courts, this does not have to be the case. Many people enter into a Financial Agreement to provide a fair settlement to both parties, and to avoid the expense and personal turmoil of matrimonial litigation in the event of a separation. This idea is mirrored to an extent in commercial contracts which provide for set outcomes in the event of pre-identified business disputes.

A Financial Agreement can be used, for example, to quarantine a business interest in the event of a separation, and that may be balanced by the other party retaining greater personal assets at an equivalent or prescribed value.

A Financial Agreement can also deal with all the existing and future assets, or simply exclude certain assets from the jurisdiction of the court, such as a business.

CORPORATE DOCUMENTATION

Partnership/securityholder agreements can deal with family law obligations, in a number of manners. These are ideally employed alongside a Financial Agreement, and offer a second tier of protection. At their worst, these measures offer considerably better protection than nothing at all.

A securityholder agreement can, for example, include a provision for the other securityholder to have a first option on the purchase of any other securityholder’s shares. A greater degree of protection could be given by providing for a mechanism by which to value those shares, or even a prescribed value.

Care must be taken regarding the circumstances in which such agreements are entered into, to avoid them being subject to the accusation that they are a "sham". Ultimately, partners or securityholders must be content to live with the terms of a corporate agreement.

This may boil down to a question of balance between protecting from the family law asset threat, as against other commercial imperatives.

Ultimately, this serves to underline the importance of employing a Financial Agreement in tandem with corporate documentation.

CONCLUSION

Like any other commercial or legal risk, the asset threat associated with family law issues, should be managed widely. The law provides useful tools to insulate from third party family law risk, and it makes good commercial sense to take advantage of that protection.

Lander & Rogers is a leading provider of Family Law services in Australasia and internationally, with the largest number of accredited Family Law specialists in Australia. If you are looking for relationship law advice, contact one of our family lawyers today.
MARKETING

Jason Borody is the Director of Vividus Medical Marketing.

The Game Changer
In the increasingly visual world of social media and digital marketing, it's no surprise that the use of video in content marketing is on the rise. And, it's certainly not a tactic that should be taken lightly. Video helps deliver information in a quick and simplified format to your prospective patients, colleagues and the healthcare industry as a whole. While video marketing is frequently an afterthought, its value demands a top position in your content marketing plan.

Digital video is often thought of as viral content on YouTube, video ads on Facebook or website homepage videos that tell a brand's story. However, many healthcare businesses are experiencing great success by using video throughout the entire patient journey to help them build better relationships, educate and manage patients, and improve patient satisfaction.

According to research by the Content Marketing Institute (CMI) on video creation for content marketing, here are the top reasons why marketers create video.

**Top Reasons For Including Video In Your Marketing**

- **Brand Awareness** - 77%
- **Social Media** - 63%
- **Lead Nurturing** - 36%
- **Recording live events** - 37%
- **Sales & Promotions** - 40%
- **Lead Generation** - 51%
- **Conversion** - 28%
- **Training** - 30%
- **Lead Nurturing** - 36%
- **Recording live events** - 37%
- **Sales & Promotions** - 40%

**MIX**

Video marketing can be a powerful platform to showcase your business with a high return on investment (ROI). Progressive medical practices that create regular video content, will not only gain online viewers, but will also be likely to attract more patients into their waiting room.

Video content opens opportunities for medical clinics and hospitals to present information in an effective way that:

- Educates patients & doctors about complicated or new procedures and treatments.
- Details streamlined treatment & recovery information.
- Markets a doctor’s unique services to their targeted patients.
- Gives people a better insight into who they are and what to expect from the practice, hospital, or products.

There are four types of videos that medical businesses use regularly for their video marketing strategies. Each has a specific purpose, which will help one to accomplish their required objectives.

**“Welcome” videos**

This type of video introduces a practice or hospital as a whole to its potential patients and clientele. In this video the viewer meets the doctors, key staff and gets a feel for the environment or facility they will be visiting while also gaining knowledge of their services to help make the decision-making process easier.

**“Facebook Live” videos**

With over 74% of marketers planning to increase their video content
in 2018, video content on social media platforms is expected to drive over 80% of all online consumer traffic by 2019. Facebook users spend 3X more time watching live videos than traditional videos. Moreover, the Facebook Live feature enables one to stream live events without ever leaving Facebook. To maximise its marketing potential, medical practices and hospitals could use the live stream video for:
- Broadcast events (pre-event, during the event and after the event).
- Live openings / product launches.
- Interviews.
- A ‘waiting room’ for audiences.
- Performing a targeted task / job.

“Meet the Doctor” videos
This is a common form of video used by medical clinics. The viewer is given a sense of a physician’s personality and manner. Most people will assume a doctor is competent, however when selecting their specific doctor a patient will choose someone they like and trust. Video is a terrific medium for allowing people to get a feel for who you are and quickly form an opinion as to whether they trust you to provide their care.

“Patient Education” videos
This type of film is like a short “show-and-tell” video in which a doctor can cover key information about a particular procedure or treatment. Physicians explain the procedure in detail, showing diagrams, “before and after” pictures and even segments of the procedure being performed. It is proven that online patient education videos can deliver 10 times the response rate than static text and graphics. This is because 33% of consumers are more likely to use social media to find healthcare information before consulting a doctor.

More than 60% of businesses believe that using interactive, personalised video, has directly led to increased revenue. Similarly to how a salesperson who meets and greets every customer who walks through the door can increase sales and customer satisfaction, so too video can drive engagement.

WHAT NOW?
It is clear that video marketing is a major game changer, but it’s not enough to simply post a video on YouTube and expect the phone to start ringing off the hook. Before you get started on recording your first video, make sure you have a video strategy in place.

A good strategy will help you create interactive, personalised videos that will allow patients to navigate your site and discover the content they are seeking at their discretion, breaking down complex messages into easily digestible and relevant pieces of information and demonstrating that you know who they are, what they want and why you’re the healthcare professional that can fulfil those needs.

At Vividus Marketing we help hospitals, medical practices and pharmaceutical firms, keep up with the ‘digital arms race’ by helping them come up with easy to implement strategies. It’s important for each medical firm to adapt to their patient trends and build out their digital offerings annually.
Kim Struthers explores how to put people back in the picture when considering practice design.

In an era of ATM’s, self-checkouts and faceless foreign call centres, in a time where it is often easier to communicate across the globe than across the street via new and ever-improving technology, fewer and fewer of us can even recall the quiet comfort of an attendant pumping our petrol or a concierge assisting our harried selves through a department store doorway.

A recent survey conducted by Lifeline Australia identified that over 60% of respondents reported ‘often feeling lonely’, making it clear that our modern society is facing a crisis of disconnection, despite being more technologically equipped than ever before. Furthermore a 2017 Lonergan research effort citing that Australians spend a cumulative average of between 9.4-11.4 hours in front of a screen on a daily basis identifies the fact that there is still room for a more tactile approach and the need for design strategies which facilitate authentic and mindful human interactions.
ENTER, HUMAN CENTRED DESIGN (HCD)

The concept of Human Centred Design is not a new one. HCD has, been accepted as a design practice in some form or another for the last 20 to 30 years, with the Australian Commission on Safety and Quality in Healthcare (ACSQHC) in 2010 defining patient-centred care as “health care that is respectful of, and responsive to, the preferences, needs and values of patients and consumers”.

However, in the light of exponential technological advancements, and facing an increasingly competitive marketplace, progressive healthcare practitioners are focussing on HCD anew as a holistic and overarching premise under which to futureproof the ongoing success of their internal operations, whilst also optimising essential outcomes for their demographic; specifically incoming patients.

Whether renovating, relocating or building from scratch, by welcoming a human centred perspective into the design phase, healthcare practitioners are able to go beyond simply integrating user ‘feedback’ and are instead able to prioritise the vital aspect of user interaction through spatial and functional considerations.

The impact of this kind of consideration goes far beyond presenting an aesthetically pleasing and architecturally savvy built result, with Human Centred Design aiming to resonate far more deeply with users across all interfaces. Patients are increasingly willing to make tremendous compensations in order to align themselves with healthcare facilities which deliver a Human Centred, holistic experience.

IMPACT ON THE INDIVIDUAL

The truth of this fact was highlighted by a recent conversation with a family member who admitted they had made a 3-hour round trip to visit a dentist 25km away for a simple check-up. When quizzed on the reasoning for this choice, especially since there was a dental clinic at the end of the street, I was provided with a detailed comparative account of numerous poor experiences at the local clinic, versus the fantastic customer experience which had led this savvy relative to make what others might call an inconvenient attachment – at least from a logistical perspective – across the city.

But apparently the drive was worth it, for I was told that clear wayfinding and direct access made for a feeling of ease from the moment of arrival, with parking an important, and commonly overlooked factor as many practitioners set up shop in residential areas or share tenancies with limited access to parking.

Furthermore, the practice was advocated to consistently project a happy and welcoming atmosphere generated through bright and engaging staff who proved their genuine care for each patient by greeting each one by name.

Complimenting the socially welcoming atmosphere, my relative painted an enviable picture of a spacious and relaxed waiting area set about with large comfortable lounges (as opposed to Long bench seating), and clinical rooms which felt...
anything but; the addition of large windows offering just the right dose of natural light. If an outlook of calming greenery wasn’t up to the task of comforting the obligatory dentist ‘jitters,’ the more indulgent widescreen television funnelling Days of Our Lives was on hand to provide any added relief needed whilst the practitioner provided a commentary understandable in layman’s terms throughout the procedure.

The complexity of building a positive experience for the target demographic becomes readily apparent upon hearing this kind of commentary, with many similar scenarios being carried out on a daily basis as end-users focus on accessing a positive experience and are therefore becoming more informed, consumer conscious and diligent in protecting their most precious asset; their health.

JUSTIFYING THE JUXTAPOSITION

When confronted with design decisions it can be difficult to attain adequate distance from the more visible fiscal concerns. When cornflower yellow paint is dearer per tin than its alternatives, understanding the benefits to be gained from the aesthetic and functional inclusions aligned with a HCD ideology allows us to balance any projected fiscal limitations with anticipated returns through more subtle avenues, such as increased referrals, improved staff retention rates and businesses equipped to grow with demand.

To further encourage more than a cursory nod to the HCD ideology, practitioners can enjoy a wide range of options to enhance their practice, thereby being equipped to achieve predetermined goals through the use of new and powerful design tools. From something as simple as improved internet connectivity in waiting areas, to whole rooms intended to house family and loved ones for extended periods of time, the options are really limited only by one’s willingness to entertain them. Clear wayfinding, has already been mentioned, but what about easily identifiable, transcultural signage which caters to a multi-cultural audience? Empowering users by accommodating their own individual preferences can also be catered to through ergonomic lighting, audio, entertainment and communication controls located within easy reach of each patient, and defining caregiver, patient and family zones through the use of varying textiles, scaled furniture and colour, as well as the separation of public routes into service and private traffic zones provides clarity and comfort for all.

Beyond just physical design, the human centred approach should seek to value each interaction in the client lifecycle, from the physiological to the psychological. Designing engaging environments which promote empathy throughout the entirety of the patient experience has been proven not only to benefit both the immediate and long-term care results of the patient, but in a classic ‘reap what you sow’ scenario, healthcare providers also extract significant value along with their patient.

Research is building which shows that practices adopting design thinking in light of user perspectives to actively improve patient experiences are also benefitting through an increase in initial traffic, faster patient turnaround, shorter postoperative stays and dispersal of fewer analgesics than those facilities featuring only quality clinic services, all of which works out better for the bottom-line. In addition, many of the so called ‘horror’ aspects of healthcare have
been shown to be reduced or avoided altogether, including emergency department return visits, medication errors, infection and mortality rates, poorly rated all over clinical care, and even decreased mortality rates. Consumer-oriented patients are increasingly exercising their rights to choose.

Complimenting this data is a study which examined data for inpatient units at two similar hospitals in the US over five years, with one introducing an extensive program of patient-centred practices and the other continuing their usual practices. The study found that the patient-centred unit consistently demonstrated a shorter average length of stay; a statistically significantly lower cost per case; a shift in emphasis from the use of higher cost staff to lower cost staff; and higher than average overall patient satisfaction scores.

All of this is reason enough for healthcare facilities to continue to court the newer generation, with post baby-boomers much more computer savvy and willing to self-research their potential healthcare providers, relying more heavily on the patient experience reported by others. Millennials (those born after 1982) are even less likely to choose their care site by physician recommendation, with a high percentage conditioned to respond to healthcare options in the same way as to the rest of the consumer market, i.e. by associating most strongly with the branding and quality of amenities provided.

**CONCLUSION**

In the same way that Human Centred Design is a collective ideology, so too the benefits of integrating HCD into a healthcare facilities range dependant on the individual facility, their specific demographic, and the overall Vision predetermining the implementation of this user-centric approach.

With new research rapidly uncovering both the depth of our societal need, and the escalating benefits of Human Centred Design, healthcare providers are welcoming this new way of working and partnering with designers to optimise their practice spaces for both their business, and their patients.

While the final resolution of HCD may not yet be at hand, I have at least come to one conclusion: I think I might have found myself a new dentist. 😊
Few would dispute that crowdfunding is enjoying a moment. Global players such as Kickstarter, Indiegogo, GoFundMe have all become household names – as have many of the investees. HoneyFlow – an Australian invention which revolutionized honey harvesting from bee hives – raised $16m in capital in 8 weeks after their campaign went viral, they were looking for $70,000! It’s the 6th highest funding round ever and marked to not only the startup community but also the investment world that crowd-sourced funding had arrived.

There are three forms of crowd-sourced funding available – donation, reward and equity. Equity crowdfunding is a relatively new phenomenon — it has only become possible in the US and UK in the last few years — but has very quickly moved from an alternative funding instrument to the mainstream. Now, it is seriously challenging traditional methods of early stage funding.

If current trends in the US continue, levels of investment through equity crowdfunding could surpass the traditional venture capital industry by 2020. That means that the empowered crowd could soon become the leading source of funding for start-ups — a new era in investment is just beginning. Equity crowdfunding is not a fad that is temporarily trending. It is here to stay. The game has changed.

David Greene explains equity crowdfunding of biotechnology.
Australian companies and investors now have a chance to get on board. Applications under The Corporations Amendment (Crowd-sourced Funding) Act 2017 were accepted from 29 September 2017, with the first round of AFSL licenses granted on the 7 January, 2018 enabling the first wave of equity crowdfunding in Australia.

TECTONIC SHIFT?
One might be tempted to ask whether there is a need for equity crowdfunding platforms to bring capital into startup investment. Evidence suggests that there is hardly a lack of available capital, according to an Australian Private Equity & Venture Capital Association Ltd (AVCAL) report in November 2017: venture capital fundraising efforts more than doubled to $1.32 billion for the year – up from $568 million in 2016. In life sciences and biotech, the increase is staggering but staggering only because we are coming off an extremely low base. Compared to the US, Australian venture capital investment into early stage life science and biotechnology per annum is on average $71bn less than our counterparts in the US.

The result of broad access to, and wide participation in, equity crowdfunding could mark something of a revolution in not only the way companies raise money, but more importantly expands the opportunities for individual investors to access companies previously only available to institutions and well connected high-net-worth individuals.

The disparity in funding in Australian domiciled life science versus that of the US creates two distinct paradigms: firstly, the investment market in the US has a higher level of sophistication and appetite for alternative assets; secondly and importantly for investment, Australian life science and biotechnology assets are considered grossly undervalued when compared to their US counterparts. To expand on this hypothesis, the depth in the capital market in the US makes investment in alternative assets (such as biotechnology) more palatable. In Australia, culturally we prefer assets that are more tangible with a lower risk profile (for example banks, property, stable miners, etc). This appetite for alternative assets means that demand is higher in the US – simple economics dictates that if demand is high and supply is low, the price must be high. If chapter 1 of the investment handbook is to buy low and sell high, then Australian life science is a good opportunity.

THE OPPORTUNITY IN NICHE MARKETS
Beyond the generalist type, there is now room for success for investors looking for opportunities in niche markets – specifically in life science. After all, innovations in the life sciences – biotechnology, medical devices, diagnostics and digital health – have the potential like no other to change the world for the better.

Landmark shifts such as the advent of genomics, personalised medicine and the power of data generated by connected devices are creating unprecedented opportunities to impact human health. This makes the life sciences sector an incredibly exciting investment theme. Moreover, healthcare is a basic human need which makes the addressable market over 7 billion people.

Early stage life science companies can struggle to raise money in an environment where traditional venture investment is increasingly unwilling to take significant risk, particularly for smaller investment sums. Equity crowdfunding will unlock these opportunities for the large pool of smaller scale private investors who are attracted to the unique high-risk, high-reward profile of the life sciences sector. It will also attract investors who want to back companies that they truly believe will make the world a better place.
WHY BIOTECH AND WHY AUSTRALIA?

Biotech, while vastly exciting, has proven to be a rather risky sector. Volatility is not uncommon, it always has been this way with drug development. Sure, millions of dollars is pocket change in terms of developing drugs and is quickly burnt through. The rate of success can seem abysmally low when compared to other industries. Yet despite the reasons not to invest, there are just as many beckoning investors to be part of truly fulfilling work. Moreover, there is something intrinsically satisfying about investing in something that quite literally saves people’s lives.

Here are 3 reasons to invest in biotech:

1. **The population is aging**
   Life expectancy is projected to increase by 1 year by 2020, which will increase the aging population (people over the age of 65) by 8%. It will be no surprise that as we age, our reliance on medicine increases. In economies such as China – who’s trajectory in aging population (14% by 2025) far outstrips the global average, this poses a significant threat to its economic prospects. The issue is compounded when looking further ahead – by 2050 the world’s population is projected to rise by 33% to more than 10 billion people. Investors would be wise to recognize this demographic and capitalize on it.

2. **Being part of something bigger**
   Consider for a moment the benefit of investing – and funding – a company that develops life-saving medication.

   A company that develops a method for early non-invasive diagnosis of diabetes. A test that obviates the painful finger-prick method for measuring glucose – if an elderly family member or child at school isn’t regularly monitoring because the current method hurts and draws unwanted attention – and you could change that, would that not be something worthwhile? Too often we invest based solely on facts and figures. While this is important, we must be cognizant of why we invest. We invest for the future. Money is a means to wealth. How we wield our wealth is much more important than merely amassing it.

3. **The sector as a whole is performing well**
   There are plenty of individual companies that do not perform well in biotech. All too often we hear horror stories of bad biotech picks. This may lead you to think the entire industry is somehow cursed – this is not true, the reality is quite the opposite actually.

   The Australian life science sector in 2017 has had one of its best performances in recent history – the S&P/ASX300 Pharmaceuticals & Biotech (ASX:AXPBK) index rallying an impressive 10% quarter-to-date (an eye watering 51% across the 12 months). For comparison, the ASX200 rallied 7% in the same period (9.4% since January 1st). In the deeper and more sophisticated US market, the scene is similar. The 10 year annual returns are up over 15% - for context, that’s more than double the increase for the S&P 500.
The global healthcare market is one of the largest with revenues topping out above U$7 trillion annually. Australia stands above the crowd with a steadfast research and development infrastructure providing a rich source of medical and scientific intellectual property. Our universities and medical research institutes rank 2nd globally behind only the US in terms of the quality and quality of output. However, what we have in intellectual capability we lack in funding, the result of which sees much of this world leading research end up in the pipeline of offshore, global pharmaceutical companies. Ultimately, someone else gets the recognition and the revenue. This doesn’t have to be the case.

Ultimately, biotech is challenging for everyone involved. However, it can offer truly incredible rewards to the patient and the diligent. The viability of the sector relies on several different factors, thus its important to stay educated about the industry. Speculating without undertaking proper due diligence leaves investors open to less than satisfactory outcomes – in this instance, biotechnology is not unlike almost every other alternative investment option. Educating oneself on the idiosyncrasies of the sector is a significant undertaking, so perhaps seek expert advice. Investing in it can be a seriously enriching endeavor.

LOOKING TOWARD TOMORROW

As the equity crowdfunding industry moves out of its present early teething phase, many platforms will be competing for market share. Some will fight to dominate the overall market, seizing the advantages of presenting a wider menu of investment opportunities and a deeper investor capital base to draw on, but will face the significant disadvantage of poor vetting and high competition. By focusing exclusively on healthcare and aggressively vetting deals with significant expertise and building relationships before they go on the platform, Capital Labs presents a more specialized and curated investment space.

Overall, the market for equity crowdfunding is set to expand massively in the years ahead. As regulatory structures are loosened and investors grow more comfortable with platform-based investing, crowdfunding may well become a common tool of medical and scientific entrepreneurs to raise capital, and for investors to take stakes in exciting startups currently beyond their reach.
ESCAPE

Serenity NOW!

The Danna Langkawi, Malaysia
A supremely serene family holiday destination by Steven Macarounas.

I am a resort ‘junkie’!

This condition is unequivocally a result of both my wife’s and my stressful and ‘taxing’ working lives.

I don’t doubt our readers have even more deserving reasons for craving regular rest, relaxation and rejuvenation – I can only speak for the absolute necessity, within our household, for at least one 5 star resort experience every year – somewhere warm, tropical, exotic and comforting.

That’s not to say that we don’t appreciate more physical, adventurous or even sporty vacations – keep an eye out, in future editions, for our Escape article on Christmas in Lapland – but every now and then we need an environment that imbues serenity.

More spiritually evolved people might argue that calm and tranquillity is a function of ones frame of mind and don’t require poolside, languid, cocktail punctuated days, fuelled by indigenously accented fine dining with a backdrop of swaying palm trees, architectural excellence and mind-reading service.

My response is: whatever floats your boat!

Each of us has (or should have) a clear picture of what our ideal holiday looks like, and for our family, following a very hectic year of deadlines, targets, endless business travel, client demands and exams the Danna resort on the tropical island paradise of Langkawi was just what the doctor ordered.

Lying off the north western coast of the Malaysian peninsular, Langkawi, officially known as Langkawi the Jewel of Kedah, is a district and an archipelago of 104 islands in the Andaman Sea – the largest of which is also known as Langkawi – a land steeped in legends and shrouded in mysteries, it is known to be the habitat of spirits, and Garuda the mythological giant eagle.

A little digging in to the history of the region and you will uncover tales of wronged maidens and lovelorn princes, surprisingly prophetic multi-generational curses, Siamese invasions, piracy, British colonisation an aerospace beacon and now a destination for the discerning traveller housing some of the finest multi-starred hotels and resorts in the world.

In contrast to some of its South East Asian neighbours, Langkawi is totally and supremely serene – not just pockets of tranquillity, the whole island is stunningly still and peaceful.

Our own slice of this haven, The Danna, beautifully exemplifies the casual, tropical, colonial sophistication of the island.

Nestled alongside the romantic, yacht filled Telaga Harbour on the Western side of the island, ones first impression of The Danna is it’s colonial heritage design and character – I love this style of hotel; think Raffles on the beach!

Super high ceilings, polished wooden floors, columns, colonnades, intricately patterned Portuguese tiling, floor to ceiling French doors opening out to the harbour or pristine infinity pool and welcoming palm tree lined beach beyond - it feels more like a tropical British expat country club than a hotel/resort – something about this exclusive ‘vibe’ really appeals to us.
We’ve stayed at more modern hotels with state of the art facilities built to attract architectural aesthetes, design aficionados and gourmet travellers – minimalism with Michelin stars!

But none of these come close to the warmth and sense of belonging, or the exclusive club atmosphere exuded by the Danna – there’s something very comforting about this place.

Perhaps it’s the magnificent, impressive main hall where guests are welcomed with a cool drink and relaxing shoulder massage.

Or maybe it’s the effortless hospitality and service that is natural, innate, an expression of confident and friendly professionalism and experience – as opposed to the overzealous, ‘in your face’ engagement from less experienced hotels and staff.

Possibly that feeling of returning home (even though you’ve never been there before) comes from the extremely spacious sun-filled accommodations – The Princess Beach Villas, (at 490 square metres, nestled amidst lush vegetation, with their own 60 square metre private pool and unobstructed sea views), certainly provide the experience of a tropical holiday home rather than a hotel room – as the Danna’s marketing people put it: “Our newly constructed villas are well equipped to provide a fortress of solitude”... surrounded by the warm waters of the Andaman sea.

Details can make all the difference between a great holiday and an absolutely unforgettable experience that stays with you well after you’ve come home, unpacked and had the family and friends over for ‘slide night’.

I’ve already raved about some of the Danna’s stand-out details, others are:

Geographic – you can’t beat a resort with a private beach – so much more inviting and restful than jutting up against kilometre after kilometre of beach front shared with other properties.

Gastronomic – the many restaurants draw on the mouth-watering, excellent Malaysian cuisine as well as Mediterranean and European classics. Rather than focussing on nouvelle/fine dining inventiveness and re-interpretation, our meals at the Danna are delicious, nourishing, comforting, hearty and plentiful – think high end Malaysian restaurant with an extensive menu, the freshest ingredients superbly prepared by International 5 Star resort Chefs.

Champagne for breakfast – always a great way to start the day. When I see a few bottles of French brut on ice at the breakfast buffet I can’t help but feel truly understood.

Over the years my travel writing has evolved from pages and pages of detailed description to more of a prologue, an entrée if you will for the images that accompany it.

The images really tell the story, and I’m hoping will attract you to consider The Danna at Langkawi for a future destination for your hard earned relaxing time in the sun. ☀
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Angela Stavropoulos and Kristy Baxter are Associate Directors and co-head the medical division at Pilot Partners Chartered Accountants.
Choosing the right structure for your investment property purchase

Kristy Baxter and Angela Stavropoulos help you consider the options.

When buying an investment property there is an important decision all medicos need to get right from the start. With many decisions to make, such as property choice, location, budget range and so on, it is easy to get caught up in the excitement of this major asset purchase and neglect one of the most critical decisions. Choosing how to structure your property’s ownership is of upmost importance for a medico buying a property given each ownership type offers varying levels of asset protection and tax benefit.

While there is no one-size-fits-all solution when it comes to purchasing an investment property, there are many factors to consider. Kristy Baxter and Angela Stavropoulos, who co-head Pilot’s medical division, explain available options and key considerations for determining the most appropriate structure to protect your assets when buying an investment property.

**OWNERSHIP OPTIONS**

**Personal ownership**
Personal ownership provides the simplest nexus for claiming interest and rental deductions but it also usually provides the poorest level of asset protection. Individual ownership can incorporate many options in a family situation such as spouse ownership, joint ownership or ownership by the medical practitioner.

At the start of your medical career you may have minimal assets to protect so this structure may be an appropriate option. Conversely, as an established medico with accumulated wealth, you have a greater need for asset protection and owning an investment property in your own name may not be a smart move.

The harsh reality is that all medical practitioners carry the risk of being sued by patients as well as general life event risk. Despite insurances mitigating these risks to a certain degree, medical practitioners should be particularly wary when holding assets in their own name.

Tax benefits for personal ownership are certainly maximised in the early years for medical practitioners on the highest tax bracket and tax advantages of negative gearing are enticing. However consider the flip side, what happens when you come to sell the property? If there is significant capital gain on the property this will all be taxed in the medico’s name, which will likely be at the top marginal tax rate. There is no option for sharing the tax burden of this gain with your family members.

Limited asset protection versus increased tax benefit is the trade-off when buying a property in your own name. All personalities and circumstances differ and while asset protection may be of utmost importance to some, others will value greater tax benefit more.

**Discretionary Trust Ownership**
As your business and asset portfolio grows, medicos may need to separate business and personal risk. At that time purchasing and owning existing investment properties through a trust may provide a better level of asset protection. We explore the option of using a trust structure for holding property.

A trust is an arrangement where an individual or company (the trustee) legally holds assets for the benefit of one or more beneficiaries.

For common discretionary trusts, the specified beneficiary group will generally consist of family members. The beneficiaries will not have any
fixed entitlements as the trustee has the discretion on how the trust’s income is distributed. For tax purposes this means that income, including capital gains, can be distributed to beneficiaries in the most tax-effective manner.

Further, subject to the trust deed, the tax law allows capital gains to be separately streamed to certain beneficiaries, possibly those with accumulated capital losses. This enables tax efficiency for the family group. Trusts, like individuals, are afforded the 50% discount when the disposed asset has been held for 12 months or more.

As a means of safeguarding your wealth against liability claims, a trust allows the practitioner to maintain control over the assets held, yet it cannot be sued as it is not a legal entity. A corporate trustee offers the best option for limited liability and succession reasons. It adds an extra layer of protection by keeping the legal ownership separate from the practitioner.

When considering whether to structure a property investment in a trust you should also note:

• **Losses.** If the property is negatively geared and the trust has no other source of income, there is no immediate tax benefit as the losses will be quarantined. However, provided the trust satisfies all requirements to carry forward the losses, they can be utilised to offset against future income. This usually occurs when debt has been paid down and the property becomes positively geared, i.e. rental income earned is more than the expenses paid.

• **Compliance Costs.** Upfront costs to establish a trust and possibly a corporate trustee need to be factored in. There are also ongoing bookkeeping and annual accounting and tax requirements for the trust, along with ASIC annual fees for the corporate trustee.

• **Borrowing.** Finance can be more complicated, particularly with a corporate trustee, where directors’ personal guarantees will be required. Lenders may charge more in establishment fees due to the additional documentation and legal requirements of reviewing the trust deed.

• **Land Tax.** Land tax is applied at state government level, meaning each state has its own rules and thresholds. It is assessed on the total value of landowners’ holdings excluding their main residence. In Queensland, the taxable threshold for land tax on individually owned property is lower than that for trusts. This means additional land tax can be levied on a property held in the name of a trust.

• **Estate Planning.** Assets owned by a trustee on trust are not specifically covered by a Will. For medical practitioners purchasing property in a trust, the property continues to be owned by the trustee on death, allowing the flexibility of passing it on to the next generation, free of estate issues.

If possible threats to your assets concern you, purchasing your property in a trust will maximise the protection afforded to your assets. You work extremely hard to accumulate wealth so it is imperative to regularly review your asset protection strategies. These strategies are a combination of insurances and purchase structures. In a trust, up front tax benefits can be delayed for many years, so you need to weigh up the trade-off between tax benefits and asset protection for your particular circumstances.

Whether you buy your property in your individual name, jointly with your spouse, in your spouse’s name or in a trust, is a decision that should be made and reviewed with each property purchase. This needs to be considered and decided prior to the signing of a contract. If a decision is made to transfer the property later on, stamp duty and capital gains tax can be triggered, potentially making it a very costly exercise.
OTHER CONSIDERATIONS
Negative gearing, capital gains tax and political risk relating to available structures can also impact on the decision making process. We explain these key considerations below.

Negative Gearing
Negative gearing is a popular and long-standing strategy where funds are borrowed to buy an income-producing property. The costs of running the property (at least in the earlier years) will outweigh the rental income generated, creating an investment loss.

The annual loss is deducted from the owner’s assessable income to reduce income that is subject to tax. If it results in a tax loss, in most cases that loss can be carried forward and offset against future income. Therefore, ownership structure has a large bearing on the timing and extent of any tax benefits. Individual ownership will provide more immediate tax benefit from negative gearing, while tax benefits can be deferred when an asset is purchased in a trust structure.

Capital Gains Tax
Subject to a number of exceptions, capital gains tax is imposed on the gain on disposal of assets. In general terms, this is the difference between the sale price and original purchase price. For rental properties, certain modifications to the calculation may apply. So long as the property has been held for longer than a year the capital gain is able to be reduced by 50%.

Capital gains tax is not a separate tax. Instead, taxable capital gains (net of capital losses) are included in the owner’s assessable income and taxed at their marginal tax rates.

Purchasing a rental property is about long-term wealth creation and maximising the owner’s financial position. As capital growth is the primary intention, potential capital gains tax exposure is an important matter that can be initially overlooked.

When a capital gain made on the sale of a property is substantial there can be a significant tax impact in the year of sale when this is taxed in an individual owner’s name. Alternatively, where a property is held in a trust capital gains can be flexibly distributed to family members to minimise the tax impact.

Company structures
There has been much talk in the media lately in relation to Bill Shorten’s plan to tax trusts the same as companies. This is not a new idea and has been discussed at various times over the past 20 years. If this was put into effect the distribution benefits of trusts may not be as easily accessible without detailed further planning and structuring. In this situation a company may become another alternative structure for the purchase of an investment property. Companies are not usually considered as they have no access to the 50% capital gains tax discount. However they do offer some asset protection benefits and with careful planning may still be able to achieve tax efficiencies through dividend allocations.

Self-managed Superannuation Fund
Self-managed superannuation funds (SMSFs) can also be used as part of a total structure for building wealth. However, as the rules and restrictions for allowed investments under the superannuation legislation is complex, caution must be exercised before jumping in and buying an investment in an SMSF. Advice should be obtained to determine if a SMSF should be considered as part of your total structure.

Choosing the right ownership structure for your investment property can be a complicated and time consuming task. Political risk is always prevalent as tax law is continuously changing. This makes it extremely important to review your structures on an ongoing basis. As a medical professional we understand your life can be busy so to find out which structure is right for you, ask your accountant for advice specifically tailored to your situation. It is important you obtain this advice at the outset of any purchase decision so that there is time and opportunity to ensure the structure chosen is the best fit for your circumstances.

ACCOUNTING

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Jack Meagher is a Director at MediPay Doctors.
After soaring property prices in recent years, the Australian housing market is transitioning to the next phase of the cycle as house price growth, auction clearance rates and lending to investors slows.

Recent data from CoreLogic shows national dwelling values fell by -0.3% in December 2017, their largest monthly fall since February 2016.

This slowdown in the pace of capital growth can be largely contributed to tighter credit policies which have fundamentally changed the lending landscape for borrowers, particularly for investors.

In a shifting market, it’s critical to stay informed of developments and maintain a robust strategy that allows you to navigate this new environment successfully.

Price growth to continue to moderate

The transition towards weaker housing market conditions has been clear but gradual, with year-to-date figures indicating the market will continue to soften into 2018. At time of writing, the Sydney market had retreated by -0.2 per cent this year, with the Melbourne market stagnating and the Perth market plateauing, with the market falling back by -0.2%.

On the upside, weaker conditions mean interest rates are likely to remain low, providing a positive lending environment for those able to secure funding.

Strategic investors with a long-term outlook should still find plenty of opportunity this year. Although the major capital city markets are unlikely to experience the high levels of short term capital growth they have recently displayed, more subdued markets may provide an opportunity to acquire certain types of property without the level of competition seen in years passed.

Further to this, it will be important to look across the broader domestic market, especially given the eastern seaboard states have run so hard in recent years.

Tighter lending conditions

What we have seen in the last few months is a shift from a macro prudential focus, which imposed limits on aggregate lending, to micro prudential, which focuses on the quality of individual loans and a borrower’s ability to repay. As a result, lenders across the board have implemented numerous policy changes in their serviceability assessments.

One area in particular that has received increased focus is in the assessment of declared living expenses. Following a directive from the banking regulator, lenders are now applying greater scrutiny to ensure borrowers can meet their existing obligations and service the new loan repayments.

If you can’t prove what you spend week-to-week, a lender may assume a higher level of spending which can impact on your borrowing capacity.

There are several apps that can help you track and justify your spending if you’re applying for a loan. One example is the Australian Securities and Investments Commission’s free TrackMySPEND software. Another is Pocketbook, which syncs with your bank accounts and credit cards to deliver a real-time view of spending against your bank balance.

Digital tools like these are a great way to justify your numbers during the loan application process, at the same time giving you better oversight and cash flow management of your finances.

Jack Meagher outlines what you need to know about Property and Finance this coming year.
Affordable entry points

Thanks to changing conditions, there is now an opportunity for many younger first-home buyers to enter the housing market. This is due to a combination of factors, including reduced investor activity, easing price gains in some capital cities and newly introduced stamp duty concessions in NSW and Victoria.

As an added benefit, medical professionals will continue to be able to leverage favourable lending conditions to assist in securing a loan. Due to their professional status, doctors receive preferential treatment and access to a range of benefits that other borrowers cannot. These include discounted fees and interest rates, higher loan-to-value ratios and the ability to avoid lenders’ mortgage insurance, which can save a significant amount of money and allow younger practitioners get a foothold in the property market sooner.

At a time when banks are looking to protect their balance sheets and mitigate risk, competition to attract high-quality mortgage customers will only continue to grow. The combination of these factors suggest that medical professionals are in prime position to capitalise in 2018.

Upgraders to Renovate

Recently, there has been a substantial increase in renovation loan applications as households choose to renovate rather than move and avoid costly entry/exist costs.

This is being most commonly funded through what’s known as a ‘top-up’ loan as borrowers take advantage of lower interest rates to utilise the equity built up in properties. It allows you to access additional funds using an existing home loan without the need to take out a separate loan, saving time and paperwork.

There are, however, a number ways to fund a renovation depending on the size of the project and budget. The most important consideration is that the chosen product and end structure aligns with your personal requirements.

If you are considering financing improvements this year, it would be wise to seek guidance from an experienced lending specialist who can advise you on all of the available options.

Interest Rates on the Move

The rhetoric from the Reserve Bank of Australia indicates rates are likely to stay where they are for the moment. As its most recent monetary policy statement indicates, the cash rate is on hold at 1.5 per cent, in an effort to help drive sustainable economic growth.

Nevertheless, lenders are continuing to adjust their rates independently of the RBA and have introduced higher pricing on investment and interest only type products. Great value can still be found for owner-occupiers, particularity those willing to make principle repayments.

For those with existing facilities, make sure you review the loan terms to ensure what you have in place is still suitable and competitive in the current market.

For more information or to discuss your own plans for the coming year contact Jack Meagher on 0456 964 339 or jack@medipay.com.au

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SMSFs and insurance tips
Ben Martin explains the ATO view on funding SMSFs and insurance – Tips on investment strategy and using insurance for liquidity or cash flow purposes.

The Australian Securities and Investments Commission (ASIC) has issued an information sheet (INFO 205) for advisers providing personal advice to clients about a self-managed superannuation fund (SMSF). The guidance provides an indication, via ‘compliance tips’, of what ASIC is likely to scrutinise during their day-to-day surveillance activities. ASIC expect to see advisers disclosing the risks and costs of operating an SMSF as well as the potential benefits that may be lost by switching to an SMSF.

This article gives context to some of the risks that ASIC have identified and the implications this could have when providing advice to clients about insurance for their SMSF investment strategy.

ASIC ‘compliance tips’ for the SMSF investment strategy:

• ASIC is likely to look at the advice clients receive about their SMSF investment strategy and in particular whether appropriate insurance cover has been considered for members
• Where a limited recourse borrowing arrangement is recommended, trustees should be provided with an explanation of the associated risks

As an example, let’s consider a two member husband/wife SMSF (corporate trustee) established several years ago. The SMSF entered into a limited recourse borrowing arrangement (LRBA) and used the proceeds, together with the couple’s super balances at the time, to purchase an investment property. Apart from a small amount of cash in the SMSF bank account, the SMSF has no other assets. The SMSF does not own any insurance policies.

The husband suddenly passes away. For the past few years his employer super guarantee (SG) contributions, together with the rental income from the investment property, provided the SMSF with adequate cash flow to make the required principal and interest repayments on the property. But with the husband’s SG contributions ceasing, the cash flow position of the fund is put under pressure and the bank is concerned about the ongoing serviceability of the loan, especially given the wife is a volunteer worker for a local charity.

Apart from the obvious lack of asset diversification, what could ASIC scrutinise if they looked at the investment strategy advice provided by the adviser to the directors of this SMSF?

Based on the guidance released by ASIC, the following factors could arguably attract their attention:

• Whether or not the advice was appropriate to the risk appetite and investment goals of the clients.
• To what extent has the fund’s investment strategy considered the likely cash flow position of the fund in light of a substantial change in circumstances, i.e. increases to loan interest rates, protracted periods of rental vacancies, decreasing rental yields, the death of a member etc.
• Whether the directors, as part of the development of the fund’s investment strategy, had considered taking out insurance cover for themselves as members of the SMSF.

How insurance could have helped…

Let’s imagine that the SMSF did own an insurance policy on the husband’s life. After he passed away, the ensuing payment of cash could have been used to extinguish the debt and alleviate any of the cash flow pressures. From there, the fund could have been in a position to retain the investment property (at least in the first instance), then proceeded to commence a death benefit income stream for the wife, using her husband’s prevailing account balance as the purchase price.

But perhaps more importantly, the liquidity created by the insurance policy would avoid the wife being forced into the position of an immediate ‘fire sale’ of the investment property following her husband’s death. In other words, the ability to repay the debt eliminates the likelihood of the bank demanding a sale of the property (perhaps due to a specific clause in the loan agreement), or because the resultant cash flow pressures leave the wife, as surviving director, with no choice but to dispose of the property in order to extinguish the debt.

That’s why the role of the adviser is so crucial when it comes to formulation of an SMSF investment strategy. Super law requires trustees to consider whether it’s appropriate to hold insurance cover for its members. This ‘compliance tip’ serves as a reminder of the role that advice about insurance can play for SMSFs that anticipate a lack of sufficient liquidity following the death or disability of a fund member.
The death or incapacity of the more active SMSF trustee/director may trigger the eventual wind up of an SMSF. Take our two member husband/wife SMSF. If the husband was the more active director, then in the interests of simplification, the wife may decide to wind up the SMSF and rollover her super to a public offer fund.

An SMSF-owned insurance policy not only creates liquidity, it can also lay the foundation for an exit strategy if the wife subsequently decides to windup the SMSF. That’s because the extinguishment of the debt provides ‘breathing space’ which effectively puts her in a position, as surviving director, to arrange for the sale of the property to coincide with an eventual windup of the SMSF. Contrast that with a fire sale of the property, which introduces an element of market risk and may consequently lead to a messy exit from the SMSF.

Business partners as co-members of an SMSF need a robust exit strategy

We know that one reason business partners establish an SMSF together is so they can house the business premises within their SMSF and lease it back to the business on commercial terms. This provides a tax effective way to accumulate superannuation savings given the obligation on the part of the business partners to pay arm’s length rent to the SMSF for the life of the lease agreement.

But it’s important that such arrangements are underpinned by a robust exit strategy that caters for the unexpected death or incapacity of one of the business partners.

That’s because the death of a business partner/member necessitates the payment of a corresponding super death benefit under super law. And as is usually the case with these SMSFs, the primary asset of the fund is the commercial property itself, so the fund typically lacks the liquidity to pay the required lump sum death benefit.

To illustrate this conundrum, when a co-business partner/member passes away within an SMSF that primarily owns commercial property (assuming no LRBA), a survivor business partner will generally have the following options:

1) Pay the nominated beneficiary a cash lump sum death benefit, using the sale proceeds from disposal of the commercial property or via the injection of a large cash contribution by the surviving member or an incoming member.

2) Pay the nominated beneficiary an in-specie death benefit using part of the commercial property.

3) Pay the nominated beneficiary a death benefit income stream.

Arguably Options 1 and 2 are not commercially viable, particularly if the survivor business partner intends to retain the property for use in the business. Option 3 is generally only a possibility where the beneficiary is the spouse or minor child of the deceased member and would require the recipient of a death benefit income steam (i.e. widow or child/child’s representative) to be admitted as a member and trustee/director of the SMSF. This could in theory lead to future disputes, particularly if the business partner and widow are at odds about the investment strategy of the fund going forward.

So, again, this compliance tip is an important reminder. When the liquidity of the fund is constrained – typically because
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the primary asset of the fund is the actual business premises of the member trustees/directors – it becomes difficult for a surviving business partner to maintain status quo while simultaneously meeting their obligations to pay a death benefit upon the passing of a business partner/member. An exit strategy therefore, is a must.

Could the SMSF own an insurance policy to underpin an exit strategy?

Since changes to super law from 1 July 2014, the establishment of insurance policies within an SMSF to provide liquidity on death or incapacity of member business partners, has been somewhat complicated. That’s because in the past, liquidity could be provided via ownership of so-called ‘cross insurance’ policies. The effect of these policies was to credit the survivor business partner’s SMSF account with the applicable sum insured on the death of the co-business partner/member (the life insured). The cash proceeds from the insurance policy would in turn be utilised to pay the required lump sum death benefit and the survivor business partner would be able to retain the business premises within the SMSF going forward.

But according to the Australian Taxation Office, changes to super law that took effect from 1 July 2014 prohibit SMSFs from establishing cross-insurance policies for these purposes.

So what liquidity solutions are available to a business partner SMSF when planning for an exit strategy?

There’s a technical view that an SMSF insurance reserve could be utilised to provide the required liquidity. However, this is likely to create significant asset holdings within the reserve, which can result in more complexity given the restrictions imposed on distributions of reserve holdings to member accounts and current contribution caps.

One option is for the business partners to ‘cross-own’ life insurance policies outside of super. That way, the survivor business partner can receive the relevant sum insured then inject the proceeds into the SMSF by way of a nonconcessional contribution. The cash can then be used by the SMSF to pay the lump sum death benefit and the commercial property can be retained within the SMSF.

The effectiveness of this strategy is of course constrained by the non-concessional contributions cap. There may be workarounds such as making a cash contribution on behalf of a spouse or arranging for the survivor business partner to partially acquire the property from the fund. However, these strategies require careful examination and are outside the scope of this paper.

Final observations

If you have clients implementing an SMSF investment strategy that involves ‘lumpy’ illiquid assets, ensure consideration has been given to a robust exit strategy. Insurance can have an important role to play in providing liquidity to an SMSF and can provide a platform for an eventual exit strategy. This of course, needs to be balanced against underwriting and insurability constraints.

As always, make sure the fund’s trust deed provides sufficient latitude to enable the implementation of the appropriate strategy and that expert technical and legal advice is being obtained where necessary.
THE ONLY THINGS OFF THE SHELF ARE THE BISCUITS.

No two people are the same, and financial advice shouldn’t be either.

When you develop a relationship with Perpetual, there are no pre-determined plans. Your tailored strategy only comes after we fully understand you and your goals. It’s personal, collaborative, and anything but cookie cutter.
Which Property Investment Strategy Is Right For You?

Josh Master is a Buyers Agent at Buyside.
Many people are left clutching at straws when it comes to choosing the right property investment strategy. Read the papers or the latest property magazine and there will often be an argument for pursuing capital growth rather than high rental income, while many others will say the opposite.

For most investors though, there is often no real understanding as to why they bought that particular property in that particular area for that particular price. Many investors look for a property that will "look after itself" in terms of income vs. expenses, but may not understand how that may affect the overall performance of the asset in the long-term.

If you're looking to develop an effective strategy for your property portfolio, there are three main points to consider:

• understanding the difference between yield and growth
• knowing how each strategy works to create wealth
• deciding on a sustainable investment strategy that works for you.

HIGH YIELD OR HIGH GROWTH?

The return on any investment is usually divided into two parts; income and asset growth. For shares, this is seen as the dividends you may receive and the price of the share itself (hopefully increasing). For property, it is the rental income and the capital growth of the property.

The relationship between rental yield and capital growth is usually an inverse or opposite one. Typically, the stronger the rental yield, the lower the capital growth, while those properties experiencing stronger capital growth will usually achieve a much lower rental yield.

The following chart outlines the general behavior of high-yield properties vs. high-growth properties. Keep in mind that both yield and growth are important in building a portfolio. The balance of each will depend on the strategy you decide to take.

General characteristics of yield vs. growth properties

<table>
<thead>
<tr>
<th>Yield focus</th>
<th>Growth focus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower $$ values</td>
<td>Higher $$$$ values</td>
</tr>
<tr>
<td>Lower growth</td>
<td>Higher growth</td>
</tr>
<tr>
<td>Cash-flow positive</td>
<td>Cash-flow negative</td>
</tr>
</tbody>
</table>

Lower-value properties tend to attract higher yields especially in the capital cities because there tends to be a floor to how low rents can go.

If a property has a reasonable rent but is well under $300,000, it’s reasonable to expect a stronger yield. For this reason, high-yield properties tend to be found in the outer ring suburbs or in regional areas where property prices are not as high and demand is not as strong.

Although the majority of properties bought in Australia are cash-flow negative to start with, meaning the expenses are greater than the rental income, over time many of those properties will become cash-flow neutral or even cash-flow positive as rents increase and/or the debt is reduced.

So which one is right for you?

CHOOSING A HIGH-YIELD STRATEGY

The decision to purchase a high-yielding property can come down to a number of factors, and just because you decide to pursue a high-yield strategy today, doesn’t mean you can’t change your strategy further down the line.

So what would make you decide to choose a strategy that focused on generating more income?

You have few years remaining to service debt

If you’re moving into retirement or semi-retirement, it can be beneficial to start focusing more on high-yield properties than on high-growth properties. High-growth properties are often cash-flow negative, taking money out of your pocket rather than contributing to your income. This lack of income in retirement can affect your lifestyle much more than if you were still in the workforce, leaving you with far fewer resources to draw upon should there be a shortfall.

High-growth properties also tend to require a longer-term commitment to the market as they take approximately 10 years to move through a full growth cycle where the gains can be fully realised.

If you move into retirement before your investment has had a chance to fully realise it’s gains, and the investment still has a negative cash flow, then you could be forced to sell the property at a time that doesn’t get the best outcome. Your efforts may be better spent purchasing a lower-value, high-yield property that will provide a good rental income regardless of the growth you may or may not receive.

Your income is quite low

High yielding properties can often be better for low-income earners simply because there may be very little extra cash flow to channel to an investment.
Any additional income that can be generated from the investment is not only welcomed, it’s often needed to get ahead.

As low-income earners are on lower tax rates, the tax breaks from negatively-geared properties are often less of an advantage to them as they are to high-income earners.

Generally a low-income earner will have a lower asset base to work from, so diversification with many lower-priced properties can be better than having ‘all your eggs in one basket’ with a higher priced property.

**Less financial stress**
Cash-flow positive properties are often favoured for their ability to make money from day one. They don’t put the investor under the financial strain as cash-flow negative properties do (where you have to contribute to the investment). This can make it easier to purchase additional high-yield investments, especially for those on lower incomes, as they’re not losing money with each purchase.

Keep in mind that while the rental yield must be reasonably high to create a cash-flow positive situation, it’s also necessary to have relatively low interest rates. In a market where high interest rates exist, additional cash flow can be hard to come by. For this reason, it is important that you can service the debt even if interest rates rise to unexpected levels.

**Yield targets – what to expect?**
Although Australia is a big place, the numbers are generally the same across the country when it comes to rental yields. Here is a guide as to rental yields in the Australian property market.

**General guide for rental yields in the Australian marketplace**

<table>
<thead>
<tr>
<th></th>
<th>1%</th>
<th>2%</th>
<th>3%</th>
<th>4%</th>
<th>5%</th>
<th>6%</th>
<th>7%</th>
<th>8%+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low yield</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mid-range yield</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High yield</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Those properties attracting yields above 6% are quite strong and would be ideal for low-income earners or for investors looking for strong rental returns once they’ve paid down their debt. If a lower-income earner can identify a property with reasonably strong growth and yields above 6%, it’s definitely worth a second look.

A yield between 4% and 6% is considered fair for most properties but will generally result in a negative cash flow situation if you have put down the usual 10% or 20% deposit. Provided there is strong growth, this mid-range yield would be suitable for higher income earners who can take advantage of tax concessions.

Properties that generate yields between 1% and 3% tend to be premium priced properties above $1 million. There tends to be a much smaller market at this level and people are only prepared to pay so much in rent, so yields are typically much lower the higher the property’s value.

**CHOOSING A HIGH-GROWTH STRATEGY**
As shown in the earlier table, choosing to pursue a high-growth strategy typically means that the property is taking money out of your pocket in terms of cash flow, at least for the first five to seven years.

As a result, only those higher income earners who can afford to sacrifice some income along the way can usually afford to hold these higher growth properties. In return, they’re typically rewarded with a better quality investment that grows a greater amount of equity over time.

This type of property is ideal if you’re a medico as salaries often far outpace living expenses. These excess funds often provide the financial freedom to invest in assets that will often double or triple their value during the working career.
Here are some of the reasons where this strategy may make sense for you:

**You’re looking for better quality property**
Higher-value properties in stronger growth areas usually result in less maintenance being required and a better quality tenant who pays on time. This can mean a lot less risk and a lot less worry. Conversely, low-value properties can result in higher yields, but they may equate to lower-quality builds in lower socio-economic areas.

**You’re earning a high income**
High-income earners often have much more discretionary income and can afford to take the loss on a more expensive property in exchange for potentially stronger growth and less risk. In addition, the loss is reduced through government tax concessions (negative gearing).

While someone on a lower income may find it difficult to diversify their portfolio with a more expensive property, a higher income earner can spread their risk as they can afford to buy higher-priced properties.

**You’re building a portfolio**
If your focus is on building your portfolio and you have sufficient time left in the market for the property to mature, your primary focus should be on growth.

Growth will provide you with the equity you need to outlay for the next deposit, which in turn allows you to purchase more property. While it’s nice to have a positive cash flow from your investment, it can be a long time before that additional cash amounts to a deposit large enough to fund another purchase.

**WHY EQUITY OFTEN BEATS INCOME**
Choosing between a high-growth strategy that generates equity vs. a high-yield strategy that generates income can have a significant impact on your portfolio. Let’s take a look at the following example to illustrate.

Two friends, Marty and Frank, each purchase a property. Marty purchases for yield while Frank purchases for growth. Both are on modest incomes so their tax rates are both at 30%. After 10 years, the results are as below.

As you can see here, when it comes to generating wealth, the growth strategy is the single biggest contributor to the creation of a property portfolio over the long term. Growth not only contributes more equity to the bottom line but it can also provide the much-needed funds required for the deposit on the next purchase.

So whether you decide to pursue a growth strategy or one based on strong yields, it often depends on the amount of time you have available in the market, your level of income and the eventual result you’re hoping for.

While a healthy yield eases the burden of holding the investment and can provide a steady stream of income into retirement, strong capital growth will build substantially more wealth for you in the long term.

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### High yield vs high growth

<table>
<thead>
<tr>
<th></th>
<th>Marty’s growth strategy</th>
<th>Frank’s yield strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property purchase price</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>Avg. growth rate per year</td>
<td>7%</td>
<td>4%</td>
</tr>
<tr>
<td>Cash flow per year</td>
<td>$10,000 loss</td>
<td>$10,000 profit</td>
</tr>
</tbody>
</table>

**After 10 years**

<table>
<thead>
<tr>
<th></th>
<th>Marty’s growth strategy</th>
<th>Frank’s yield strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>New property value</td>
<td>$984,000</td>
<td>$740,000</td>
</tr>
<tr>
<td>Equity available</td>
<td>$484,000</td>
<td>$240,000</td>
</tr>
<tr>
<td>Cash flow position</td>
<td>– $100,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>Cash flow after tax @ 30%</td>
<td>– $70,000</td>
<td>$70,000</td>
</tr>
<tr>
<td>Total position</td>
<td>$417,000</td>
<td>$310,000</td>
</tr>
</tbody>
</table>
Hmmm… The reality is that all doctors have a sales force. They are your frontline staff. Receptionists, nurses, practice managers, anyone who has a direct interface with your patients - whether clinical or non-clinical - is your sales force.

The scope of medical practice staff duties are unusual. They are often very broad and quite unique. They include detailed administrative duties, billings and payments, complex appointment and diary management, diligent and timely reporting etc...

But perhaps the most important aspect of their work is their interaction with your patients. Each day they deal with your patients, potential patients and referrers on the phone, fax, email and face to face.

They are the first experience the potential patient has of your practice, and through their interactions they help to set the stage of whether you see a happy or an unhappy patient.

Sometimes your potential patients will choose not to see you due to their first experience of your practice. They also strongly determine in the minds of your patients whether they;

- Believe in your service
- That you care about them
- That they can trust you
- That you will look after them
- That you will give them better outcomes
- That you are honest, reliable

To sum up – they are a powerful influence on answering the question "WHY SHOULD I CHOOSE YOU DR X?"

A large part of CJU’s business with clients is to “mystery shop” their practice. We do this to audit your “shopfront” and gauge how your staff perform with a potential patient.

Very often the results of these mystery shops are not what has been expected by the doctor due to a disconnect between what the doctor believes their “sales force” is doing and what is actually taking place.

It’s not necessarily that your staff are being rude (although sadly, that isn’t uncommon) - but that they don’t take advantage of the opportunity to engage and capture a potential patient. More often than not, this is simply because they lack ‘sales’ training. Not the ‘hard sell’ type but training that enables them to start building a relationship with potential patients from the moment they answer the phone, knowing how to politely follow up potential patients and participate in the conversion process.

**When you look at your staff from this perspective – how satisfied are you?**

When a medical practice engages staff there are many aspects that need to be addressed.

That they can handle all elements of working within and/or managing a practice from a technical and clinical point of view has always been a pre-requisite in staff selection.

In today’s competitive world, their interpersonal skills and ability to engage with people, capture details and follow up will make the difference between running a practice and having a successful, thriving business that has happy patients.

**How can we help?**

CJU assesses staff skills and tailor makes training sessions specifically to target areas of concern. We ensure it is a positive and rewarding experience that staff buy into and value. Call us to discuss how we can help your sales force grow your medical business. 😊
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Winston Judd, Director

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Often, we get asked the question “how much do you think my practice is worth?” with the expectation to provide an answer that could reflect the years of hard work put into it.

There isn’t a definite answer, there are a number of elements that play a role in the process of a business valuation. Some of them are tangible and some of them are intangible.

No matter the figure we can come up with, if there is no buyer prepared to pay the asking price that valuation is irrelevant.

Firstly, you need to put yourself in the shoes of the buyer and ask yourself the question: “Would I buy my practice?” “Would I pay the price I’m asking for?”

Most buyers are looking for a unicorn, a business that performs extraordinarily well generating exorbitant profits, where the risk is minimal and its price is next to nothing.

In parallel to that, vendors are looking for unicorns too. They want to sell an underperforming business at the highest possible price passing all the risks to the buyer.

Inspired on that, you can see many ads on the internet on different platforms wanting you to believe you’ve found a unicorn.

It’s something we can comfortably say; unicorns don’t exist. So, vendors and buyers don’t waste your time looking for them.

The value of a medical practice lays mainly on 4 factors:

1. Profits
2. Risk
3. Growth
4. Goodwill

1. PROFITS
A word sometimes mistaken with Revenue. Profits are the actual amount of money left after paying all the expenses. In business terms, you’ll often see it as EBIT (earnings before interest and tax).

Commonly the business will be assessed initially on the basis of its profits and how likely are these to be maintained overtime (Risk) and the opportunity to grow them (Growth).

2. RISK
A medical practice as a service provider relies mostly on the people rendering the services. Your customers follow the individual not the brand. A classic example of customer loyalty can be seen every day on General
Practitioners, Dentist, Hairdresser, etc. If you are happy with their work, you stick with them and follow them everywhere they go.

Therefore, since the profits of a Medical business rely on the Doctors rendering the services; the buyer will like to ensure the Doctors are staying and will continue to perform as well as they have been over the years especially after the change in ownership.

3. GROWTH
A business that has no room for growth becomes a high-risk purchase fully relying on ensuring everything will remain as it is for a period of time.

On the other hand, a business that has room for growth becomes an attractive investment especially if the growth can be achieved at a low cost and in a relatively short period of time.

4. GOODWILL
The brand that you have created over the years, good or bad, will play a significant impact in attracting new customers.

Nowadays, one of the first things we do when someone is intending on selling their practice is a Google search. Customer reviews are available to the public and this will give more or less confidence to the buyer.

In summary, your business needs to be assessed based on these four main elements; Profit, Risk, Growth and Goodwill. All four factors can be influenced and improved overtime in order to achieve a better financial outcome for you, the practice owner.

Trying to sell a business in a short period of time usually doesn’t bring a good result for the vendor.

We recommend our customers to start the process of preparing the business for sale 3 to 5 years earlier. This will give you, the vendor, enough time to positively influence the 4 elements above mentioned.

To help you assess your business and prepare it to achieve the best financial outcome you can request a complementary consultation at aldeaconslting.com.au/contact-us
EVENTS

20-22 October 2017, Adelaide Hills, The Private Practice
Big Weekend
20-22 October 2017, Adelaide Hills,
The Private Practice Big Weekend
Fred Smith is Principal, Prue Poole is Principal and Jolynda Turner is an Associate at McInnes Wilson Lawyers.
It is likely that during your career you have or may be asked by a lawyer to provide an opinion about your patient’s capacity to make an enduring power of attorney (EPA) or will.

It may be reassuring to you that whether or not a person had capacity to make an EPA or will is a legal test which only the court can decide. A court will determine a person’s capacity on the basis of available evidence which usually includes evidence from medical practitioners but also other witnesses that may have had contact with the patient at the relevant time (e.g. neighbours, staff at a nursing home, the patient’s lawyer and so on).

Below is some general information regarding what capacity a patient must have to make an EPA or will that may assist you when providing an opinion about your patient’s capacity to make these documents.

WHAT IS LEGAL CAPACITY?
Legal capacity refers to a person’s ability to make decisions for themselves and deal with their legal affairs. A person is always presumed to have capacity to make their own decisions unless there is evidence to the contrary that can rebut that presumption.

The relevant test to determine if a person has capacity will depend upon the decision the person is attempting to make. Different tests are used to assess capacity. For example, the capacity to marry is different to the capacity required to make an EPA so it is possible a person has capacity to marry but not necessarily to make an EPA.

Some of the behaviours listed below may indicate (but do not necessarily mean) that a person lacks capacity:
- A person who is elderly and/or suffering a disability or impairment (e.g. dementia, cognitive impairment, intellectual disability or mental illness);
- The person has difficulty recalling details, is forgetful or has a bad memory;
- The person cannot perform simple calculations;
- The person is disoriented or repeats themselves;
- The person is anxious or upset about making decisions or defers to others; and/or
- It is noticeable that there is a change in the person’s presentation, mood or sociability.

CAPACITY TO MAKE A WILL

The legal capacity required to make a valid will is called ‘testamentary capacity’. If there is a dispute about the validity of a will, the court will need to determine whether or not the person had testamentary capacity to make the will.

Whether or not a person had testamentary capacity has been considered in many legal cases. The courts have held that the qualities necessary to possess capacity to make a will can be summarised as having the ability to:
- Understand the nature of making a will and its effects (i.e. the person is giving instructions to make a will and they understand a will gives away what they own on death);
- Understand, at least in general terms, the nature, extent and value of the person’s estate which they are disposing of by their will;
- Be aware of those who may reasonably be thought to have a claim upon the person’s estate after their death, and the basis for and the nature of the claims of those persons (e.g. spouse, children); and
- Evaluate and discriminate between the respective strengths of the claims of such persons (e.g. there should be no disorder of the mind and no insane delusions influencing the disposal of the person’s estate).

The general rule is that the person making the will must have testamentary capacity at the time they sign the will. It must also be remembered that capacity is a fluid concept meaning that a person who at a particular time does not have testamentary capacity may, during a lucid interval, have such testamentary capacity.

It is important you understand the legal test for testamentary capacity, however lawyers will usually be seeking your medical opinion for further evidence that may be vital in assisting the court in determining whether or not a person had testamentary capacity to make a valid will.

Fred Smith, Prue Poole and Jolynda Turner discuss assessing a patient’s capacity to make an enduring power of attorney or will.
CAPACITY TO MAKE AN ENDURING POWER OF ATTORNEY

The legal capacity required to make a valid EPA is contained in the Powers of Attorney Act 1998 (Qld) which provides the person must be capable of:

- Understanding the nature and effect of the EPA;
- Freely and voluntarily making decisions about the matters in the EPA; and
- Communicating the decisions in some way.

Understanding the nature and effect of the EPA specifically includes the person understanding:

- They may specify or limit the power to be given to an attorney and instruct the attorney about the exercise of the power;
- When the power begins;
- Once the power for personal/health matters and/or financial matters begins, the attorney has full power and control over such matters, subject to any terms included in the EPA;
- The person may revoke the EPA at any time while they are capable of making a new EPA giving the same kind of power;
- The power of the attorney/s will continue even if the person who made the EPA subsequently has impaired capacity; and
- If the person is not capable of revoking the EPA then they will be unable to effectively oversee the use of the power by the attorney/s.

The standard of capacity to make an EPA is generally considered to be a much higher standard than for capacity to make a will. In some circumstances a court may determine that a person has capacity to make a will but not to make an EPA.

PRACTICAL CONSIDERATIONS WHEN PROVIDING YOUR OPINION

1. When are you likely to be asked to provide an opinion? You may be asked to provide an opinion on your patient’s capacity either at the time they wish to make an EPA and/or will or you may be asked to provide an opinion on your patient’s capacity to make a will after they die (e.g. because someone is challenging the will on the grounds that it was made at a time when they did not have testamentary capacity).

2. What your written opinion might contain. When providing your opinion on a patient’s capacity, you would most likely be asked to provide:

- The length of your professional involvement with the patient;
- Whether you attended on the patient at around the time that instructions were given to make an EPA and/or will;
- The last time you attended with the patient;
- Having regard to the legal tests mentioned above, whether in your view, the patient has/had capacity to make an EPA and/or will; and
- Whether the patient suffers from any disorder that could affect their ability to make an EPA and/or will.

Other helpful information you may like to share with the lawyers is how long you spent with your patient, their general demeanour, whether they were alone or accompanied, the patient’s presentation, state of mind and the effects of medication or treatment on the patient.
SUCCESSFUL PRACTICES ARE BUILT ON TRUST.

OUR EXPERIENCE ALLOWS US TO APPRECIATE THE CHALLENGES YOU FACE; OUR EXPERTISE EQUIPS US TO HELP YOU OVERCOME THEM.
3. **Can you charge for providing your written opinion?** You are entitled to charge for your opinion but there is no set fee. It seems the usual practice is to charge a reasonable fee for the time reviewing the lawyer’s letter of instruction and any attachments, time speaking with the lawyer (if appropriate), time reviewing the patient’s medical file, time for attending with the patient (if necessary and or appropriate) and time preparing the opinion.

4. **Patient records.** You may eventually be asked to provide a copy of your patient records (possibly even with a translation!).

5. **Is there any risk when providing an opinion?** If your patient’s capacity to make the EPA and or will is challenged, then you may be asked to be a witness in any court proceedings. If you refuse, then you may be subpoenaed by the court and required to give evidence about your patient’s capacity.

If you are required by the court to be an expert witness to court proceedings then there are certain formalities you must comply with. *The Uniform Civil Procedure Rules 1999* (Qld) set out various matters required to be addressed in an expert’s report. As an expert witness you have a duty to assist the court. You must understand that the duty overrides any obligation you might have to any party to the proceeding (e.g. your patient) or to any person who is liable to pay your fee (e.g. the lawyer requesting the report or an insurance company etc.). Your report must contain factual matters you reasonably believe to be true and any opinion expressed must be genuinely held.

There should be no risk for a doctor that provides an opinion about a patient if the opinion satisfies the expert witness requirements.

6. **What if you do not want to provide an opinion?** You may elect not to provide an opinion but you may be subpoenaed by the court and required to give evidence about the patient’s capacity. If subpoenaed, you may be compensated for your time but usually this is not adequate for the real cost of being away from your practice.

If you are asked to make an assessment of a patient’s capacity to make an EPA and/or will you are being asked for your professional opinion which is not a final decision about your patient’s ability to make these documents. Your opinion about a patient’s capacity is not necessarily right or wrong – it is just an opinion that forms part of the evidence available for consideration by the court.

With the medical and legal profession working together, we can aim to ensure that we discharge our duties and also give our patients/clients the best chance to achieve their wishes in relation to their EPA and or will.
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Loryn Einstein is the Managing Director at Medical Billing Experts.
Inappropriate Medicare billing resulted in $29 million of debts against doctors and healthcare providers by the federal government last year. The 2017 Professional Services Review Annual Report showed that, for the first time since the inception of the PSR scheme, the PSR recovered more in funds than its Treasury appropriation. To avoid the serious ramifications to their practices of the PSR activities, doctors and healthcare providers need to be diligent and well informed with their billing compliance.

The increase in funds recovered from doctors and healthcare providers has increased significantly over the past five years, as shown in the chart below.

In addition to the ongoing referrals of General Practitioners to the PSR, there has also been a marked increase in specialists referred to the Professional Services Review by Medicare. Whilst only 13.7% of practitioners referred to the PSR in 2015-16 were specialists, this increased to 29.6% in 2016-17 with further increases expected in the future.

The improper billing by specialists that was recently referred to the PSR included specialists in radiology, neurology, ophthalmology, nuclear medicine, dermatology, otorhinolaryngology, psychiatry, and respiratory and sleep medicine. This included three large recoveries from specialists in September 2017:

- $1,100,000 recovered from a nuclear medicine physician for improper billing of items 12306, 12312, 12315 and 12323. The practitioner was also disqualified from billing MBS item numbers 12306, 12312, 12315 and 12323 for 18 months;
- $750,000 recovered from an ophthalmologist for improper billing of items 42702, 42740 and 42788; and
- $2,000,000 was recovered from a consultant sleep and respiratory physician for improper billing of items 11503 and 12203. The practitioner was also disqualified from billing items 11503 and 12203 for 3 years.

In addition to financial recovery and disqualifying practitioners from billing item numbers, the PSR also referred three times the number of practitioners in 2016-17 to AHPRA than the previous year.
The PSR stated in their annual report that: “In 2017–18, PSR will further strengthen the deterrent effect of the PSR Scheme by continuing to refer cases of practitioners who may pose a threat to the life or health of a patient to regulatory bodies for further action. The PSR will also refer to the major non-compliance unit any practitioner where a serious compliance concern is generated.”

To help doctors protect themselves from the impact of these increased compliance audits by Medicare and the PSR, **compliance and appropriate billing** will be the focus of my “In a Nutshell” articles as well as the lectures I will be delivering for The Private Practice in 2018. This includes lectures at The Private Practice Risk and Compliance 1 day workshops and lectures at the 3 day Comprehensive courses at various locations across Australia.

The remainder of this article will focus on important changes to billing of pre and post-surgical consultations that took effect on 1 November 2017 as a result of the ongoing Medicare Benefits Schedule Review. Staying up to date with these changes as well as the numerous other changes to the MBS that have occurred over the last six months is critical for all doctors and medical practices.

**CONSULTATIONS BILLED ON THE SAME DAY AS PROCEDURES**

The Medicare rules for charging consultations on the same day as procedures or surgeries has changed effective from 1 November 2017. The change was driven by a concern of the MBS Review Taskforce that attendance or consultation items were being billed the same day as procedures where no substantive attendance on the patient occurred. For many procedures, the taskforce was of the opinion that the consultation was “considered to be integral to the procedure and not a separate service”.

The inconsistency in billing practices across different providers was also of concern to the MBS Review Taskforce. The data showed that some providers rarely or never billed consultations with procedures while other practitioners often or always billed consultations with procedures. The Taskforce appears to have been particularly concerned with the variance in billing of consultations with colonoscopies.

**If ANY of the item numbers that you are billing in Group T8 (item numbers from 30001-50952) have an MBS schedule fee of $300 or more, you can no longer bill the following items on the same date of service**

- 105 – Specialist subsequent attendance
- 116 – Consultant Physician subsequent attendance
- 119 – Consultant Physician minor subsequent attendance
- 386 – Occupational Physician subsequent attendance
- 2806 – Pain Medicine subsequent attendance
- 2814 – Pain Medicine subsequent minor attendance
- 3010 – Palliative Medicine subsequent attendance
- 3014 – Palliative Medicine subsequent minor attendance
- 6019 – Addiction Medicine subsequent attendance
- 6052 – Sexual Health Medicine subsequent attendance
- 16404 – Obstetrics subsequent attendance

Medicare has released three new consultation item numbers that can be billed from 1 November 2017. These new items can be billed on the same date of service that you are billing an item in Group T8 (item numbers from 30001-50952) ONLY IF the PROCEDURE IS URGENT AND NOT ABLE TO BE PREDICTED PRIOR TO THE COMMENCEMENT OF THE ATTENDANCE.

As such, Medicare has stated that: “It is expected that these items would be rarely required”. This would indicate that frequent billing of the below item numbers may raise an audit flag so please bill with caution.

- Item 111 - for use by specialists
- Item 117 – for use by Consultant Physicians
- Item 120 – for use by Consultant Physicians (minor attendance)
Please note that to bill any of the below item numbers you must meet all the criteria listed and per the above, bill with extreme caution.

111 Professional attendance at consulting rooms or in hospital by a specialist in the practice of his or her specialty following referral of the patient to him or her by a referring practitioner—an attendance after the first attendance in a single course of treatment, if:
   (a) during the attendance, the specialist determines the need to perform an operation on the patient that had not otherwise been scheduled; and
   (b) the specialist subsequently performs an operation on the patient, on the same day; and
   (c) the operation is a service to which an item in Group T8 applies; and
   (d) the amount specified in the item in Group T8 as the fee for a service to which that item applies is $300 or more
For any particular patient, once only on the same day.
Fee: $43.00 Benefit: 75% = $32.25 85% = $36.55

117 Professional attendance at consulting rooms or in hospital, by consultant physician in the practice of his or her specialty (other than psychiatry) following referral of the patient to him or her by a referring practitioner – an attendance after the first attendance in a single course of treatment, if:
   (a) the attendance is not a minor attendance; and
   (b) during the attendance, the consultant physician determines the need to perform an operation on the patient that had not otherwise been scheduled; and
   (c) the consultant physician subsequently performs an operation on the patient, on the same day; and
   (d) the operation is a service to which an item in Group T8 applies; and
   (e) the amount specified in the item in Group T8 as the fee for a service to which that item applies is $300 or more
For any particular patient, once only on the same day.
Fee: $75.50 Benefit: 75% = $56.65 85% = $64.20

120 Professional attendance at consulting rooms or in hospital by a consultant physician in the practice of his or her specialty (other than psychiatry) following referral of the patient to him or her by a referring practitioner – an attendance after the first attendance in a single course of treatment, if:
   (a) the attendance is a minor attendance; and
   (b) during the attendance, the consultant physician determines the need to perform an operation on the patient that had not otherwise been scheduled; and
   (c) the consultant physician subsequently performs an operation on the patient, on the same day; and
   (d) the operation is a service to which an item in Group T8 applies; and
   (e) the amount specified in the item in Group T8 as the fee for a service to which that item applies is $300 or more
For any particular patient, once only on the same day.
Fee: $43.00 Benefit: 75% = $32.25 85% = $36.55

The information supplied by Medicare so far indicates that this rule only applies to subsequent attendances and that initial consultations can still be billed if appropriate.
AFTERCARE PROVIDED BY GENERAL PRACTITIONERS

Before the 1 November 2017 changes approved by the Medicare Benefits Schedule Review Taskforce, the Medicare benefit for the aftercare for most operations was included in benefits paid to the provider performing the procedure. In cases where it was more practical for the patient’s aftercare to be managed by their GP, there was no Medicare benefit available to the GP as the specialist who performed the procedure had already been paid for the aftercare. Not only was this disadvantaging GP’s financially, it also put an administrative burden on their practices to follow up rejections when patients were seen by the GP after procedures, whether or not the GP visit related to aftercare for the procedure itself.

As of 1 November 2017, General Practitioners can bill consultations for providing aftercare for patients who have had procedures. They can also treat patients for unrelated conditions without running the risk of unnecessary rejections by Medicare as “possible aftercare”.

If aftercare is included in the Medicare benefit paid for the operation or procedure, the provider who performed the operation or procedure is still required to provide routine aftercare without billing the patient. The benefit for this aftercare is still included in the benefit paid for the surgical or procedural item number(s).

If the General Practitioner is the provider that performed the surgery or procedure, they also cannot bill for a consultation if aftercare was included in the original benefit paid for the surgery or procedure.

Both pre and post the 1 November 2017 changes, providers wishing to bill for consultations that do not meet the aftercare rules are only prohibited from billing Medicare and from billing the Health Funds (which contains a Medicare benefit component) for the consultation. Providers can bill these consultations privately which is a pure out of pocket expense for the patient which will not be subject to any Medicare or Health Fund rebate.

NOTE: When raising these invoices, providers must not list an MBS item number on the invoice as the consultation does not qualify for a Medicare rebate.

Now more than ever compliance needs to be of concern to every practitioner and medical practice. The Department of Health has quadrupled their audit staff this financial year, highlighting how crucial compliance with Medicare and DOH legislation and billing requirements is. Keep an eye out for my “In a Nutshell” publications, and take the opportunity to attend an upcoming Risk and Compliance Management Workshop for further billing compliance updates.
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Walk into the office of Williams Batters, a real estate agent in South Yarra, Melbourne and you’re in a living history of Australian business life. You’ll see pictures of a shopfront from the 1870s where there’s a horse and cart outside a window promoting, “Insurances Effected”.

On our visit, we saw contracts signed in 1919, war diaries from World War 2 and advertising posters that looked like they’d been stolen from a pitch meeting in an episode of Mad Men.

But what we also saw was a set of Virtual Reality goggles, a reminder that Williams Batters has survived so long because it has moved with the times – and with its clients.

Bill Cook is the third generation of his family to be involved in the business. His great uncle bought the business from the Williams Brothers in 1919. Bill’s father took over the business and ran it for many years (along the way, being captured by the Japanese during World War 2 and coming back home at half his original body weight). He brought Bill into the business in the 1960s.

Bill, like so many successful business and practice owners, is constantly facing the challenge of integrating decisions about business and personal finances. Today, another layer is added to that set of challenges as he looks to protect the legacy of his business, provide for his children and secure his own future.
SUPER AND TAX, COMBINED

For help, he turns to Richard van der Merwe, a partner with the Fordham accounting firm, which is a specialist part of Perpetual. Richard has worked with the Cook family for over 15 years. The Fordham/Cook relationship is even deeper, spanning some 60 years. Indeed, Bill worked in the Fordham office during his high school years.

Today, the Fordham advice to Bill and his family is managed through Fordham’s Family Office service – with Fordham managing accounting, tax and business advice and Perpetual Private providing wealth management, superannuation and estate planning.

The recent, major changes to superannuation are an example of the way the Family Office structure can deliver value for business and practice owners. “We sat down with Richard and with Perpetual. They mapped out what we needed to do and the whole thing – the tax management, the super strategy changes - went through seamlessly”, says Bill.

“With Bill and his family, the Family Office approach makes sure nothing falls between the cracks,” says Richard van der Merwe. “We help with all the business accounting and tax, but also with managing a complex set of personal financial issues – across the generations for Bill and his sister Libby and down the generations as Bill plans for the future of his business and his children.”

LEGACY

That integration challenge is where the Family Office service, with a trusted adviser sitting in the middle, proves its worth for so many individuals whose fortunes (in both senses of the word) are tied up with a family business. “You’ve got family assets, shared family assets, sibling dynamics and generational dynamics – all need to be understood, integrated and managed at the same time as the operating business and risk issues,” says Richard.

Bill admits that the business is now “in his blood” and the depth of long-built client relationships make it hard to walk away from. He also commented that having an adviser like Richard to bring experience and clarity to business decisions has been helpful. “It’s a long relationship,” says Bill, “and there’s loyalty on both sides. But now, to have the mix of business and wealth advice in the same place, well, it’s been invaluable.”

Family life can be complicated. Complex relationships, combined with family wealth and business interests, can be difficult to navigate. A Perpetual adviser can help you with your financial goals. For an introduction to Perpetual Private and referral to a Perpetual Specialist Medical Senior Adviser, please send an email to perpetualprivate@perpetual.com.au or phone 1800 631 381.

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EVENTS

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² A business must be a Qantas Business Rewards Member and an individual must be a Qantas Frequent Flyer Member to earn Qantas Points with MIGA. Qantas Points are offered under the MIGA Terms and Conditions www.miga.com.au/qantas-tc. Qantas Business Rewards Members and Qantas Frequent Flyer Members will earn 1 Qantas Point for every eligible $1 spent (excl. GST) on payments to MIGA for Eligible Products. Eligible Products are Insurance for Doctors, Medical Indemnity Insurance Policy, Eligible Midwives in Private Practice, Professional Indemnity Insurance Policy, Healthcare Companies, Professional Indemnity Insurance Policy. Eligible spend with MIGA is calculated on the total of the base premium and membership fee (where applicable) and after any government rebate, subsidies and risk management discount, excluding charges such as GST, Stamp Duty and ROCS. Qantas Points will be credited to the relevant Qantas account after receipt of payment for an Eligible Product and in any event within 30 days of payment by You. Any claims in relation to Qantas Points under this offer must be made directly to MIGA by calling National Free Call 1800 777 156 or emailing clientservices@miga.com.au. © MIGA November 2017.
Timothy Bowen outlines the new obligations for health care providers.
From 22 February 2018 doctors, other health practitioners and health care practices in private practice will have new obligations to inform patients and the Office of the Australian Information Commissioner (OAIC) of ‘eligible data breaches’.

These obligations are an extension of existing privacy law obligations around collection, use and disclosure of health and other personal information as part of caring for patients.

What is the notifiable data breach obligation?

Private health care providers are required to:

- Inform individuals (usually patients) and the OAIC about events which involve:
  - unauthorised access to information
  - unauthorised use of information
  - loss of information likely to result in authorised access or disclosure

If these events are:

- likely to result in serious harm to affected individuals, and/or
- cannot be effectively remediated through action to prevent the likely risk of serious harm

- Make the notification to individuals and OAIC as soon as reasonably practicable.

According to the OAIC

The NDB scheme will strengthen the protections afforded to everyone’s personal information, and will improve transparency in the way that organisations respond to serious data breaches. This in turn supports consumer and community confidence that personal information is being respected and protected. It also gives individuals the opportunity to take steps to minimise the damage that can result from unauthorised use of their personal information.

In recent years, the OAIC has been encouraging ‘voluntary’ notifications of certain data breaches to it. This is seen as part of promoting transparency, ensuring public confidence and allowing appropriate steps to be taken to minimise the risk posed to individuals.

What MIGA has been and is doing

MIGA is conscious of the new burdens these obligations will place on its members.

It has had significant involvement in consultations around the scheme. In particular, it successfully opposed the suggestion of all health ‘data breaches’ being notifiable, emphasised the challenges this regime will pose for a diverse health profession and has been contributing to OAIC draft guidance for those affected by the scheme (see below).

Our claims solicitors can assist our members and clients in navigating this new regime, particularly in working out whether there has been a notifiable data breach and to work through the process of notifying patients and the OAIC, if required.

What happens from 22 February 2018?

Over the first 12 months of the scheme, the OAIC’s primary focus will be on educating those affected by the new scheme, working with them to ensure they understand what is required and that they are trying to ensure they follow it. After that, it is likely the OAIC will have a stronger focus on ensuring compliance with the scheme.

Non-compliance with the obligations could have significant implications. The OAIC can determine there has been an interference with an individual’s privacy, leading to a complaint to the Privacy Commissioner. In serious or repeated cases, there may be Court proceedings seeking significant financial penalties.

When could these obligations arise?

Even though the scheme refers to ‘data’, the obligations are not just for situations involving electronic health records or other e-health information. They can apply to all situations in which health care providers hold and disclose health and other personal information for their patients, including hard copy health records and contact information.

Possible examples of unauthorised access, disclosure or loss which could lead to an obligation to inform patients and the OAIC include:

- Test results being sent to the wrong patient
- Inappropriate disclosure of health information to a family member or friend, ie where not permitted under privacy laws or in breach of a Court order
- Viewing of health records by unauthorised practice staff members or contractors
- Inadequate steps to ‘cleanse’ or destroy information on computer hardware before it is disposed of
- Successful hacking of a practice’s computer system or cloud storage provider
- Practice or storage provider break-ins and theft of information
- Loss of information stored electronically (ie USB) or on paper
- Inadvertently placing health or other personal information on a publicly accessible website.
I think there may have been a data breach – what should I do?

The first thing is to take the necessary steps to contain or fix the breach.

The next step is to assess the breach, what it involves and the risk it may pose to affected individuals.

At this point, we encourage you to contact MIGA claims solicitors for assistance in working through what, if any, reporting requirements need to be considered...

If you believe there has been a notifiable data breach, you must notify OAIC and affected individuals as soon as practicable.

If you only suspect there may have been a notifiable data breach, you have up to 30 days to complete an assessment of whether there has been a notifiable data breach.

There are no prescribed assessment process procedures. Depending on the circumstances, it may only involve liaising with those involved in your practice and reviewing information. In more complex cases, such as hacking of practice systems, you may need expert involvement.

To assess whether individuals are at risk of serious harm, you apply the test of the ‘reasonable person’ in your position, taking into account information you have or can reasonably ascertain, considering:

• The nature of the information
• Sensitivity of the information
• Any security measures used and likelihood they could be overcome
• Nature of potential harm to individuals, which could be psychological, emotional, physical, financial or reputational.

According to the OAIC, the chance of serious harm increases with the number of individuals affected, and it would be prudent to assume breaches involving a very large number of individuals are likely to result in serious harm to at least one individual.[2]

What about data breaches involving cloud storage?

Even if the breach occurred with the cloud service provider, the health care provider who uses that service for storage of health and other personal information may still need to inform individuals and the OAIC if the breach reaches the threshold of being notifiable.

This reinforces the need to take care when considering choice of cloud service providers for information storage, particularly how robust their security and privacy protocols are.

There has been a notifiable data breach – what do I do?

Once you have established the need to notify the OAIC and affected individuals:

• You should provide individuals with enough information for them to assess the possible consequences of the data breach and to take any necessary protective action. MIGA can assist with the preparation of an appropriate notice.
• To notify the OAIC, there is a template notifiable data breach statement available on its website – www.oaic.gov.au/ndb - you need to provide provider identity and contact details, description of the breach, nature of the information involved and recommendations about steps which affected individuals could take in response.

If you are able to determine which individuals are at risk of serious harm, you have the options of:

• Notifying all individuals affected, even if it is unclear if all are at risk of serious harm
• If this is impractical, publishing the OAIC notification on your website and taking additional steps to publicise its contents (ie through social media, print and online).

Are there exceptions?

The key exceptions to these obligations are:

• Individuals are not likely to suffer a risk of serious harm from unauthorised access, disclosure or loss
• There was no unauthorised access or disclosure following loss of information
• Remedial action taken following unauthorised access, disclosure or loss was sufficient to prevent the risk of serious harm.
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There are also exceptions on the obligation to notify if there is more than one person or entity who holds the information and have an obligations to notify. In those circumstances, only one is expected to make the notifications on behalf of all – usually the one with the most direct connection with the affected individuals. In the health care context, this would usually be the doctor, other health practitioner or practice.

Is My Health Record affected by these obligations?

There are already separate obligations on My Health Record registered health care provider organisations to notify the Australian Digital Health Agency (the ‘System Operator’) and the OAIC of:

• Unauthorised collection, use or disclosure of information in My Health Record
• Potentially compromised integrity of My Health Record

Unlike the notifiable data breach scheme, there is no requirement of a risk of serious harm to affected individuals, and the ADHA is responsible for notifying affected individuals.

This scheme only applies to breaches involving the My Health Record itself. It does not apply information which may have been taken from it and put with the patient’s records, which is then subsequently part of a data breach via other means.

Is there anything I can be doing to reduce the risk of a notifiable data breach?

It may be that certain data breaches are unpreventable notwithstanding the steps taken to prevent them occurring.

However, there may be steps you could take to minimise the risk of a data breach occurring, which could include:

• Reviewing privacy practices and procedures – are these in place and up-to-date?
• Does everyone in your practice understand their privacy obligations? Is any training required?
• For those working with you, including IT contractors or cloud service providers, do you have agreements dealing with privacy and notifiable data breach obligations?
• Assessing where you or your practice may be at risk of a data breach, and taking remedial or risk reducing action before it occurs
• Having a notifiable data breach response plan – the OAIC has developed a template, available HERE.

MIGA’s claims solicitors regularly provide clients with advice on privacy matters that arise in their practice. In the case of a possible data breach our solicitors are available to assist assessing the breach and provide advice on any actions that may need to be taken.

We encourage MIGA clients to contact our claims solicitors as soon as they think that a breach may have occurred so that we can assist them take timely action and ensure they meet their obligations. Clients can contact us via email claims@miga.com.au, telephone 1800 839 280 or via miga.com.au
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Claire Forshaw encourages you to make 2018 your year...

“Health is a state of complete physical, mental and social wellbeing…” according to the World Health Organization; and as practitioners, it’s important to invest in your own wellbeing first. As you embark on a new year, ditch the resolutions, and instead make focusing on your overall wellbeing your priority.

At any one time, one in six working age people live with mental illness
And many more are caring for and supporting them. This makes mental illness one of the leading causes of sickness absence and long-term work incapacity in Australia. Mental health is closely linked to wellbeing, but there is so much more that contributes to managing your overall health and lifestyle.

In 2010, US research and performance management consultancy Gallup undertook a comprehensive study of people in more than 150 countries to ascertain the five universal, interconnected elements of wellbeing. They found that career, social, financial, physical and community wellbeing entwine to influence life as we live it, and when it comes to the medical profession, these five elements have a very strong correlation given the pressures, working hours and environment succumbed.
Australian doctors report being most stressed by balancing work and personal responsibilities

You’re working in a profession with a great deal of inherent stress – that’s nothing new – but a beyond blue review into the mental health of the medical profession in Australia confirms it, finding “the general work experience for Australian doctors is stressful and demanding”.

An interesting interconnector is financial wellbeing. The researchers at Gallup ascertained that “financial security has much more influence on your overall wellbeing than your income alone” while “at almost every income level, experiential purchases produce a higher level of wellbeing than material purchases”.

On top of work stress, you may actually be giving away up to $15,000 unnecessarily every year

If you work as a medical contractor some or all of the time and operate via an ABN or Pty Ltd, that is a lot of money that can be put toward securing your future, paying down debt, planning a holiday, or any other goal or experiential purchase that will support your idea of wellbeing.

Yes, I’m talking to all those full-time hospital HMOs, interns, residents and registrars undertaking additional locum work; full-time hospital doctors about to specialise and doing locum work; returning fellows working full-time in a hospital and doing locum work; full-time lifestyle locums and doctors working in private practice.

You are potentially throwing away hard earned cash while you bury yourself in paperwork and compliance for taxation, insurance and so on. But, there are fundamental financial changes you can make right now in 2018 that can have a big impact every year moving forward. And the good news is they will also save you time too – giving you back something else that’s vital to your wellbeing.

Save time and make more money this year in four simple steps

1. Be a super sleuth and uncover your cover
Did you know that if you’re engaging in a private practice or as a locum you can be a sole trader, work within a Pty Ltd structure or a medical contractor management solution where you’re paid (including tax and entitlements) eliminating BAS, tax and paperwork?

In particular, it’s important to be aware that in many instances, as a sole trader you are in fact classified as an employee – and your rate should include your superannuation plus you also should have access to Work Cover.

Does this surprise you? Is this what your currently receiving?

Firstly let’s talk super. Many of us hate to think about funding for our retirement but it is a fact of life – and of increasing importance as cost of living rises, our population ages and there is more of a squeeze on assets.

It’s imperative to consider retirement savings now – and super is a no brainer.

At the same time, WorkCover is a critical cost of medical work too, yet many medical practices are still not compliant nor paying super or WorkCover for their doctors engaged as sole traders.

In a medical contractor management model, doctors have their super paid, Work Cover in place and also get more money in their hand. And there is now no risk to the medical practice or clinic any more. They will simply receive an invoice from the supplier and know that everything else is covered for the doctor.

2. Do your CSI on PSI
Personal services income (PSI) is confusing. Put simply, it is income produced mainly from your personal skills as an individual and classified as PSI when more than 50 per cent of the amount you received for a contract was for your labour, skills or expertise. So any medical contracting you do will likely be classified as PSI.
If you earn PSI, it affects the range of deductions you may claim and your reporting requirements. You can receive PSI even if you're not a sole trader. If you’re producing PSI through a company, partnership or trust and the PSI rules apply, the income will be treated as your individual income for tax purposes. If you’re working as a contractor, you have different responsibilities and requirements to employees.

Most contractors do not realise that the PSI rules are a lot more than just the 80/20 rule. This is only a small part of it. As a contractor if you’re supplying your services, you do not pass the tests. Recent audits by the Auditor General’s Department on the ATO on independent contractors found 81.5 per cent were non-compliant.

So don’t forget, if you contract as a sole trader for any part of your work, then this applies to you. However, if you contract via a Pty Ltd structure you must provide your own Work Cover and don’t qualify for the Super Guarantee in this scenario. It’s really important to understand your classification by speaking to a professional advisor to ensure you understand where you fit, get the right entitlements and are compliant in every aspect.

3. Sacrificing for the tax man
Everyone loves to beat the tax man with tax minimisation strategies – and one of those is salary sacrificing. Many of you will already have salary packages through your hospital employer, but for locum or private practice work, it’s possible to double the salary packaging benefits in addition.

For example, if you’re a full-time lifestyle locum working as a sole trader and earn $168,652 in a year after paying tax instalments, super and your accountant, and after factoring in the hours of non-billable time handling business admin, payroll and other needs; you’ll be left with just over $95K in your pocket. And you are not able to salary package at all.

However, if you choose a medical contractor management solution, you can salary package $15,900 in untaxed living expenses and $2,650 in untaxed meals, and avoid the wasting hours of non-billable time wading through stacks of paperwork. Even after deducting the payroll provider’s fee, you end up with an extra $15,432.63 extra in your pocket. That’s the $15K I mentioned earlier.

And there’s other salary packaging benefits too. For example, you may choose to travel to a remote area for four weeks to support rural patients. The contractor management model can actually roll the travel costs over this period into your salary packaging for additional tax breaks. Or do you travel interstate for locum work? They can package a combination of accommodation, flights, per diems and incidentals, which may not be covered by the hospital offering you the shifts.

Novated car leases, laptops, mobile phones are all other examples of things you could potentially salary package. Salary packaging is a specialised field and requires advice from qualified accountants and taxation advisors to ensure you are offered the most effective and compliant tax planning and payroll solutions in the area of salary packaging.

4. Consider a medical contractor management solution
As a medical contractor, your responsibilities include paying instalment tax, filling your
BAS paperwork, covering your own insurances, invoicing and all of the tedious tasks involved in making sure you follow up your payments, getting everything ready for your accountant and making sure everything is in order if you have an ATO audit. Don’t underestimate the unbillable hours it takes to make sure all of this is done correctly too.

The medical contractor management solution removes risk, offers you Work Cover, super, and salary packaging; and gives you back control and your lifestyle. You focus on your career and they manage invoicing your clients, paying you correctly as well providing access to great salary packaging options. Why would you contract through your own private company or as a sole trader with an ABN when you have these services?

Make more money and spend more time living the life you want this year. You have a unique chance to claim more time for yourself and invest in it however you see fit – financially, physically, mentally and emotionally. Consider the five pillars of wellbeing and make the most if your life in 2018 and explore a medical contractor management solution that delivers you more time and more money so you can focus on your career and what’s most important to you.

Claire Forshaw is the National Client Manager for Power Pays, which provides contractor management solutions for the medical and IT industries. Power Pays can help tailor your professional or individual finance framework via a holistic service combining salary packaging, tax and accounting, home and investment loans, and novated teasing to your individual needs, all underpinned by simple, flexible, compliant, and cost effective support. Find out more at powerpays.com.au

Claire Forshaw is authorised as a credit representative (Credit Representative number 483826) to engage in credit activities on behalf of BLSSA Pty Ltd (ACN 117 651 760) (Australian Credit Licence number 391237).

Neil Borthwick explains the relationship between progressive insurance claims management and the path to recovery.
Life events leading to a claim can be the most difficult and stressful experience for insurance customers – and so at BT, we have chosen to focus on simplifying the claims process and helping customers with their recovery. If a patient and their doctor can focus on health and treatment rather than the claims process, then a better outcome is far more likely.

Collaborating with medical professionals is an integral part of our approach to delivering better results for customers at claim time. To better help patients and medical professionals we have introduced three key initiatives including:

• electronic medical certificates; (simplifying certification process),
• milestone claims management; (minimising paperwork)
• and our leading health support program, tailored to the patient’s medical condition.

An integral part of assessing our customers’ return to health is the use of BT’s Health Outcome Measure, an indication of a patient’s recovery following an injury or sickness.

INSURTECH RESULTS IN LESS PAPERWORK

Launched in November 2017, our most recent development is an innovative service that facilitates electronic medical certificates (ecerts), making it easier for doctors to issue medical certificates for their patients who are making a claim. This reduces time spent on paperwork for patients and doctors.

According to research Australian doctors are burdened with an average of seven hours of paperwork and other non-clinical, administrative tasks in any given week – time that could be better spent on treating and caring for patients.

We at BT, like the Royal Australian College of General Practitioners (RACGP) understand that reducing paper-based patient communications will be simpler for patients and doctors.

Ecerts are stored on existing medical software and designed to be user-friendly, with pre-populated patient data and reflexive questions. They are processed via a secure insurtech platform, and developed in accordance with the RACGP’s requirements on electronic communications.

The launch of ecerts follows the recent introduction of milestone claims management at BT, as well as health support programs and the Health Outcome Measure a couple of years ago – all heavily influenced by medical research and consultation with medical professionals. Step by step, we have learned how to improve the claims process so that it focuses on customers’ needs; as well as how to make the process more collaborative with medical professionals who are crucial to the journey to recovery.

MILESTONE MANAGEMENT

Milestone management represents our customer-centric approach to the submission of medical forms: instead of requesting certificates monthly, our claims team now tailors the timings for the completion of medical forms to suit a customer’s recovery plan for their particular medical condition. This reduces the need for paperwork during periods that are not relevant to the customer’s recovery. Meanwhile, the customer’s regular claim payments continue to be made, without the need for any unnecessary visits to the doctor.

For example, a typical customer with a rotator cuff injury is in the acute phase of recovery in the first 16 weeks. We understand this customer would be highly unlikely to be able to work at this stage, so using milestone management would waive forms during this period, yet still continue with our normal payments. A simple phone call to the customer would be made throughout this time to ensure they are on track in their recovery.

Since BT introduced milestone management at the beginning of 2017, the number of certificates requested by BT’s claims team has dropped by 47 per cent, resulting in greater efficiency and freeing up patients and doctors’ time.

HEALTH OUTCOME MEASURE

Just over two years ago, the life insurance team at BT chose to strengthen our health support for customers. The resulting health support programs and Health Outcome Measure (HOM) are based on the research and position papers associated with “The Health Benefits of Good Work,” prepared by The Royal Australasian College of Physicians.

Introduced in July 2015, BT’s HOM assesses a customer on a number of health aspects including: cognition, self-care, participation, mobility and capacity to undertake everyday activities.

From this information scores are created at three points in time: firstly, for pre-illness/injury health, then at the time of claim, and lastly when the health support program is complete. The end score is compared to the pre-illness/injury score to determine how successfully the customer has returned to wellness.
For example, a customer whose score was at 85 per cent pre-illness/injury (refer to Figure 1 below). After illness/injury their score fell to 40 per cent and with the assistance from BT’s health support team, the customer had a final score of 80 per cent. So this customer’s HOM is the difference between their post-illness/injury score of 80 per cent to their illness/injury score of 40 per cent, which equals 40 per cent. This is divided by the difference between their pre-illness/injury score of 85 percent to their illness/injury score of 40 per cent, which equals 45 per cent. This equates to an 89 per cent improvement in health. And naturally the key benefit here is not the number but the customer’s recovery!

**HEALTH SUPPORT PROGRAMS**

Over the past 12 months alone, BT has spent around $1.8m on external rehabilitation support, to help customers regain their health and return to meaningful and sustainable work.

Health support is tailored for each customer and their specific needs and goals. It can include physical recovery support – exercise physiology sessions, fatigue management plans and ergonomic assessments. Where it’s required, BT also offers psychological recovery support and occupational rehabilitation support, mindfulness and relaxation program, return to work support, retraining and job seeking.

Since July 2015, around 1,800 BT customers have benefited from some form of health support.

Through our health support programs and the HOM, we are finding new ways to improve our support to certain customer groups, depending on their medical condition.

For example, customers that have had cancer or cardiovascular diseases have achieved the highest HOM scores. This speaks to the quality of their treatment providers, the suitability of our tailored programs and customer resilience. Every day our team finds inspiration from our customers and the challenges they face.

Meanwhile, our lowest scores are for neurological disorders such as multiple sclerosis. As these diseases are progressive, we would expect this, but we continue to seek ways to best support these customers. The activities they find most difficult are standing, sitting and driving. We need to look at how we can support these customers practically with ergonomics, mobility and psychological support, to facilitate their independence.

Our aspiration is to enhance our tailored support for customers and get them the best possible health outcomes, and our focus on health support is helping us achieve that.

Over time, we have gradually seen the life insurance industry embrace health and wellbeing-centric products and services.
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At BT we continue to identify new ways to improve our service and support to customers as well as the ways we work with medical professionals who are treating them. If our shared mission is to improve health outcomes for customers, and we are working respectfully together to achieve that, then we are heading in the right direction.

1. How BT's health support team collaborates with medical professionals

Evan was employed as a wood machinist. He has a wife and two young children, who are financially dependent on him.

Two years ago, he started to experience discomfort and pain in his lower back; he eventually stopped working when the pain became too severe.

Evan's journey of exploring the best treatment options then began. When a cortisone injection and physiotherapy treatment failed to result in any improvement, he was diagnosed with a herniated disc, and received some devastating news: if he ever wanted to have a pain-free future, he needed to have surgery to replace the affected disc.

Without private health insurance, the waiting period for his surgery would have been well over 12 months. His income protection policy provided another way forward. When he lodged his claim with BT, it was quickly referred to the in-house health support team.

Fearful of making his condition worse, Evan was initially reluctant to participate in health support. His claims consultant assured him that the health support team would work closely with his doctors and not do anything to aggravate his condition. They offered to arrange vocational rehabilitation services, tailored to Evan's needs, which were paid for by BT. The costs for these services are not part of the lump sum payments that a customer receives under their income protection policy.

Evan accepted the team's assistance, and was referred to an external rehabilitation provider, whose initial focus was on supporting a graded return to non-manual duties at his workplace, of which his employer was fully supportive. Evan also undertook a hydrotherapy program with the goal of improving his overall strength and to prevent deconditioning.

With the help of a tailored exercise physiology program to further strengthen his back, Evan made a remarkable recovery – so much so that he no longer required surgery. He had achieved the unthinkable – he was going to be able to get on with his life and manage his pain levels and avoid the need for surgery.

“I just wanted to let you know what an absolutely wonderful job you do,” Evan said to the BT claims team. “Suffering from chronic back pain is something I wouldn’t wish on my worst enemy.”

2. Holistic care delivered after a HOM assessment

Peter*, a 35-year-old senior analyst, had ceased work due to significant fatigue-related symptoms, headaches, depression and anxiety. When BT's claims team first made contact with him, his symptoms had not yet been diagnosed and treatment options were still being explored, despite numerous tests with different specialists.

Peter's road to recovery began with a referral to BT's in-house health support team. A psychologist obtained his HOM and the insights from the HOM assessment helped the team to determine where their support needed to be focused.

A referral to a new immunologist and a treating psychologist, and assistance from a dietician, all helped Peter regain his health. His tailored health support program included a conditioning program with an exercise physiologist, so he could improve his fitness after losing weight.

After a six-month graduated return to work and recovery plan, he commenced full-time employment again as a senior analyst. “It’s great to be back working again and feeling so much better,” Peter told BT's claims team. “Thanks so much … your support and advice have definitely helped with my recovery.”

Utilising BT's HOM, Peter's overall wellness improved by 89%.

(*Customers' names have been changed for privacy reasons.)
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While classic cars have always been desirable, we have noticed a large change in demand for classic & blue-chip classic cars over the past 10 years. Classic cars have been the No. 1 performing asset over the last decade, with the value of rare and exotic cars rising 20% every year over the between 2007 and 2017, respectively. As a result of this increasing demand from around the world, we aim to cater for every customer’s needs by buying and selling any car with a great history.

Our stunning building is located at 41 Madden Grove, Richmond, right next to Burnley station. Designed by renowned architect, Karl Fender, the building holds the largest array of rare and exotic cars throughout its four stories. Fender himself commented, “the key design driver was to demonstrate Dutton Garage’s commitment to, and love of the levels of design quality reflected in the vehicles they sell.” As a result, the building has been fit with features such as Windows salvaged from the Old Members Grandstand of the MCG and integration of salvaged cast iron fluted columns from Melbourne’s Myer Emporium building.

Featuring complete in-house engine and gearbox rebuilding facilities, this state-of-the-art workshop manages the complete preparation and restoration process in one place. With safety as a number one priority, all cars are fitted with the most up-to-date equipment.

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Feeling super?

Simon Conolly is Manager of Strategic Advice at Perpetual.
Simon Conolly asks how informed are you around current super legislation.

If you earned a dollar for every article about the super changes over the past year, you wouldn’t have to worry about your super. You’d have enough to retire on.

There’s been no shortage of commentary – but are Australians better informed or just more confused? We wanted to know the answer. So we asked 2700 Australians how they felt about their super, as part of Perpetual’s How Do You Feel? project.

As the name suggests, the purpose of this research was to find out how people feel about the main events and circumstances in their lives. What are the secrets of happiness and success? There are some intriguing and useful insights which we will share with you in future editions of The Private Practice magazine.

But for the moment, let’s get back to super.

The finding we found most surprising related to tax – less than 10% of the people surveyed recognised how tax effective super could be.

We dug a little deeper and looked at those Australians who identified as being financially secure. What was their view on super? On balance, they recognised that super was a good safety net for their retirement and felt comfortable with their level of savings. Did they understand how tax effective it could be? No.

A SUPER PLACE FOR YOUR RETIREMENT SAVINGS

For every dollar you earn, would you prefer having 85 cents or as little as 53 cents working for you?

This question goes to the heart of super’s tax benefits, particularly for high income earners. Earnings derived from assets held through super are taxed at a maximum rate of 15% – any income generated on assets supporting a retirement phase income stream is tax-free. Outside the super system, your earnings can be taxed as high as 47% (including Medicare levy). That’s a big difference – and there’s more.

The tax-effectiveness of super extends beyond the low tax rate on investment earnings. From age 60, all benefit payments received, either as a lump sum or an income stream, are generally tax-free. Tax may apply to certain benefits received from an untaxed source, e.g. an untaxed defined benefit fund.

Super is still the most tax effective vehicle for accumulating retirement savings. The catch is that the government has made it more difficult to get your money into the super system.

NOT SO SUPER – RECENT LEGISLATIVE CHANGES

Here are some of the recent changes that could catch you out and leave you with a nasty tax bill:

- The amount you can contribute to super before-tax (concessional contributions (CCs)), which include salary sacrifice, employer and personal deductible contributions, has dropped from $30k ($35k for those aged 50 or above) to $25k per annum for everyone.
The amount you can contribute after-tax (non-concessional contributions (NCCs)) has been cut from $180k to $100k per annum.

Once your total super balance (TSB) hits $1.6m you can’t make any additional after-tax contributions (excluding those related to certain small business capital gain tax concessions and compensation or damages for personal injury).

If you earn $250k or above, you pay an additional 15% tax on your CCs.

WHAT DOES THIS MEAN FOR YOU?
The changes to super have two consequences for people approaching retirement:

1. **More risk** – if you are making super contributions above the new limits you may receive a nasty tax bill.

2. **Tighter caps** – the new rules mean you need to plan ahead and contribute over the longer term rather than wait until a few years before retirement.

   If stricter contribution limits affect you, now is the time to speak to an expert who can help you implement the tax and super strategy that suits you.

OPTIONS WORTH THINKING ABOUT
Two options you may want to consider:

1. **Utilising the ‘bring-forward’ rule to expedite your super contributions.**

   If you are under the age of 65 and have a TSB less than $1.4M, you may be able to bring-forward up to three years’ worth of NCCs into your super. If your TSB is between $1.4M and $1.5M, you may be able to bring-forward up to two years’ worth of NCCs into super.

   So instead of contributing a maximum of $100,000 in one year, you may be able to bring forward your contributions for the next few years and contribute up to $300,000 into your super. Earnings from the investment of that $300,000 will be taxed at a maximum of 15% compared to paying personal income tax at up to 47% (including Medicare levy).

2. **With the reduction to contribution caps, consider directing your surplus income into alternative investment structures.**

   Whilst potentially not as tax-effective as super, investment structures such as family discretionary trusts and insurance/investment bonds can provide greater flexibility particularly for people who wish to access their money before their superannuation preservation age.

   These are just two of a number of different options that may be suitable depending on an individual’s personal circumstances. You should seek professional financial and tax advice in relation to your personal circumstances before implementing either of these options.
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