

**THE
DOCTORS
GUIDE TO**

*Negotiating Your
Contract Like a Pro*

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By Dr. Cory S. Fawcett © 2016

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Negotiating Your Contract Like a Pro

When you get the offer for the job you want, get ready to make it the best it can be by negotiating the important terms of your contract. The purpose of a contract is to assure all parties understand what is expected.

Make sure everything you want is there before signing. Once you sign, you will be expected to perform as it states. One of the biggest grievances people had with Congress, when they adopted the Affordable Care Act in 2010, was they passed it without understanding what it said. It was more than a third of a million words long, and most members of Congress had not read it. Comments were made that they needed to pass it first, and then they would figure out what it means.

Don't begin your practice like that. Understand what is expected of you and make sure everyone understands what you plan to deliver. Then deliver more than expected.

This is one time in your life when you may have significant negotiating power. They are recruiting you because they need you. When you have something they want, you have negotiating power. Now is the time to ask for benefits. Once you sign a contract and begin to work for your employer, negotiating power drops significantly. Take advantage of this small window of opportunity to get what you want. Don't be a deer staring into the headlights of a huge salary and sign-on bonus and forget everything else.

ATTORNEY REVIEW

The contract you sign for your first job out of residency may be the most valuable one in your life. If your salary is \$250,000 a year and you plan to work 30 years, that's a \$7.5 million contract, without counting benefits. A pretty big deal. Get your own attorney to look over the contract with you. His fee is nothing compared to the contract size. Don't take this lightly. The other party who drew up the contract had it prepared by an attorney who was on their side. Make sure to balance it with an attorney on your side.

NEGOTIATING YOUR CONTRACT LIKE A PRO

WHAT TO INCLUDE IN YOUR CONTRACT

There are a myriad of benefits available for the asking. You usually will not get everything you want, but being prepared to negotiate helps. Write down your top priorities. Of course, the largest benefit is salary, and everyone wants as much as they can get. Sometimes the other party is not willing to give what you want on this one. They may be working under some constraints, but you can make up for it with benefits. Benefits can be extremely valuable to you and may not matter much to the other party, especially if they are concentrating on getting you at a certain salary. Always remember the arrangement needs to be a win-win deal. Both parties should have their needs met.

Salary and bonus

There's a lot more to salary than the number. How your pay is determined makes a big difference. Straight salary not tied to any production numbers is the easiest to understand. Most contracts have some sort of production bonus written in. Make sure the bonus is something easy to calculate. One friend of mine got to the end of the year looking for his bonus, only to find the hospital didn't have any way of showing him how the calculations were made. Not being able to see the calculations made him feel he was being cheated. Maybe he was being cheated, or maybe he wasn't—but he doesn't know, and that impacted his job satisfaction. The point is to avoid this by making sure the calculations are transparent and easy to understand.

Something simple like a multiplication of total relative value units (RVUs) generated can be very easy to understand. Another would be some figure over a threshold of RVUs of production.

Always be sure figures are based on your production and not on what is collected, or net profit. If you join a partnership and your income is based on collections, your senior partner, who already has a referral base, can take all the paying patients and leave you with the non-paying patients, and he'll get more pay for the same work. Every gallbladder you remove or history and physical (H&P) you perform should be worth the same value, whether or not the patients have insurance. If bonuses are based on net profits, it's easy to keep adding expenses and never show a profit. What you are after is something fair for everyone and easy to understand.

Vacation

This is a very important item, so don't skimp here. Professionals don't stop working when the clock strikes five. We take work home. We wake up at night to a pager and can't get back to sleep. We worry about outcomes even when we are not working. Lots of nights and weekends are spent

NEGOTIATING YOUR CONTRACT LIKE A PRO

away from our families. In short, we work a lot of hours at a high level of stress and many of those hours are not on the clock. Time for recharging is very important—and most administrators don't understand this.

Try and get at least six weeks of real vacation each year. If you don't ask for it on the original contract, it will be hard to get later. However much vacation you think you need, you will need more. In a salary-based system, this may be hard to get as your employers want you there, producing profits for them. You will be more productive if you have a chance to periodically recharge than you will if you get burned out.

In a fully production-based system, they shouldn't care how much vacation you take, since when you are gone and not producing, your pay will decrease as well. I worked under this kind of arrangement for eighteen years and took eight to twelve weeks off each year. Get as much time off as you can negotiate, even if it means dropping your salary to compensate. Your sanity will thank me later.

Time and compensation for continuing education

You will be required by the hospital and your licensing board to take a certain amount of continuing education each year. You may be required to take special classes on a recurring basis, like Advanced Trauma Life Support (ATLS), Advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS), and others. These courses are not vacation, so you will need some additional time off to accommodate them. Two weeks should do. I know a hospital employee who was required to attend a course to use a new piece of equipment. When he requested his final week of vacation that year he was told he had no vacation time left. The hospital had booked his trip for the required course against his vacation time. Continuing education courses are not vacations, especially when they are required.

There should also be a provision for them to pay for some of this education. You should be able to submit your costs for reimbursement up to a maximum amount, say \$2,500–\$5,000. They require it, so they should help pay.

Sick/family leave

There should be a provision for sick leave. This tends to accrue as you work. One to two weeks a year is good. It's best if this time isn't considered vacation. Some contracts combine all your time

NEGOTIATING YOUR CONTRACT LIKE A PRO

off into one category, personal time. They don't care if it is sick leave, educational, or vacation, it all counts the same. This is OK, as long as the total time adds up to what you should have in all the areas. If they use such a system and allow you only three weeks off a year, it will not be enough to keep you healthy. Be sure you have accounted for family/maternity leave. You are likely to need this at some time and it is better if you spell it out early.

Malpractice insurance

Be sure the contract specifies what type and how much malpractice insurance you have. If they use a "claims made" policy, determine who will be responsible for the extended reporting endorsement, commonly known as a *tail*, when you leave. If it is a partnership, you will likely be responsible for your own tail. If you work for a hospital, try to have them pay the tail if you leave. If the hospital is self-insured, you won't have to worry about a tail.

Exit terms

It seems like a funny time to start talking about leaving as you're agreeing to your first job, but it's important to lay out the foundation for this now. Be sure the exit strategy is spelled out in the contract. At some point in the future you or one of your partners will either find a new job or retire. The time to spell out the terms of this is now, while it is not an issue. Be sure any terms for a buyout are easy to understand and the same for you as for the senior partners.

Some practices have a mandatory retirement age and some don't. What if your partner is beyond performing well at his advanced age but won't retire; is there a provision for removal? What are the terms for dismissal for cause, when you do something bad and get fired? Is there a notice period for you to leave or for them to let you go without cause? Ask for at least 90 days—the more the better.

Retirement plan

When are you eligible to participate in the company retirement plan? Most will have a waiting period, such as January first after you have worked for one full year. Will the company match your funds? Is there a vesting period, where if you leave before a certain time, they will take back their matching funds? As part of your due diligence, you should know what kinds of investment options are available in the plan, although those won't likely be negotiable.

NEGOTIATING YOUR CONTRACT LIKE A PRO

Pay for being on call/working extra shifts

Taking call is a great burden. Getting paid to shoulder that burden certainly seems fair and could offset the time you lose from your elective practice, your family, and your nights and weekends off. Be sure they are compensating you fairly for the amount of call they are requiring.

If you do shift work in an emergency department or as a hospitalist and you are contracted to do a certain number of shifts per month, can you take extra shifts? You can substantially boost your income by taking additional shifts.

Day off

Ask for one unscheduled day each work week, a day off. This day allows you some time to catch up or plan non-work-related appointments. My day off was Tuesday; I was able to make plans knowing I would have some free time and never be on call Tuesdays. My wife and I were able to take weekly classes. I could get a haircut, have my teeth cleaned, or schedule other appointments without fear of having to cancel them.

I officially had the day off, but there were always things to do—an operation that had to be worked in, a backlog of charts, administrative paperwork, catching up on journals, hospital committee work, etc. Having a day during the week to help with these items makes it more likely you will stay caught up and have the weekend free. These things are included in your duties and you shouldn't have to do them on your weekend off.

Moving expenses

It is reasonable to expect them to pay for your moving expenses. They should cover actual costs, up to a set amount. Most residents don't have the money to pay for the move.

Sign-on bonus

Depending on how desperately a practice needs you, they may offer a sign-on bonus to get you to pick them over the competition. This is a great perk. It can be used to help get you established in your home, buy some furniture, replace the resident car you've been nursing along, or even pay down some of your debts. If you get this money, don't blow it. Use it sparingly and wisely—\$50,000 to get you started is very helpful. It also makes a great emergency fund.

NEGOTIATING YOUR CONTRACT LIKE A PRO

Royalties

If you are planning on working at a university and are an entrepreneur, be sure you spell out who owns your work. Some places feel if you invent something or write a book while they are paying your salary, it belongs to the university. I don't agree. Some of the work will be done on your own time and some of the work will be done on their time. Giving them full ownership is not fair. You don't want to come up with an idea as revolutionary as the Fogarty catheter and get nothing financially from the process because the university claims they own it.

Loan repayment

Postgraduate training is getting absurdly expensive and many young doctors are drowning in debt. Negotiating some kind of loan repayment plan into your contract can be very rewarding. Many places will be happy to do this as it might give them an edge over the competition, and they know it's on your mind.

Be careful with the forgivable loan, where the employer will give you a loan and every year you work they will forgive part of it. This is good as long as you stay with them. If you leave before the period specified in the contract, you will have to pay back the loan. If you used the money they loaned you for something other than paying down your loans, you just went further into debt.

Health insurance

You want to have good health insurance for the whole family, not just you. Many employers are scaling back health insurance to save money as the cost continues to rise. They may only offer it free to the employee and you have to pay the premiums for the rest of the family. Ideally you get the whole family covered with no premiums paid by you. They may also have a high deductible plan, meaning you pay for the first \$5,000 and they pay the rest. If so, you may be able to have a health savings account (HSA). This is a tax-deferred account similar to an individual retirement account (IRA), which can only be used for healthcare expenses, but you don't have to wait until you are 59 ½ years old to use it. If you get one, don't use it to pay for anything. Keep putting money in but don't take it out. Use your monthly income to pay for health expenses and use the HSA as another retirement account, a stealth IRA. Don't take anything out until you are retired, and then use it for your healthcare needs when you no longer have a monthly earned income. This allows you to put more money away in a tax-deferred account.

NEGOTIATING YOUR CONTRACT LIKE A PRO

Watch for a noncompete clause

The contract you sign may include a noncompete clause. No practice or hospital wants to recruit you to become their competitor, so they may include a noncompete clause. This may bar you from practicing within a designated geographic area for a specified period of time, if you should leave their employment. Try to remove this clause, since it is of no benefit to you—only your employer benefits.

If you can't remove it, then be sure the terms are reasonable. They can't tell you not to practice in the entire state, but within twenty miles might be OK. Consider a buyout for this clause, such as: for \$50,000 consideration, the clause is void and you can set up your own competing practice. In reality though, the noncompete clause is usually not an issue, since wanting out of the contract often means you also want to leave the area.

OTHERS

There will be several sections of lawyer talk in the contract, such as arbitration and waiver. Don't be too concerned about these sections but do read and understand them. The following is a list of other topics you may want to discuss. Some will be in the contract and some will not:

Working conditions

- What are the office hours?
- Do you make rounds on your day off?
- Are the weekends free if you are not on call?
- Who is covering your after-hours patient calls, you or the person on call?
- Is the office open on Saturdays?
- Which holidays are observed?
- Who makes the call schedule?
- How often must you take call?
- How are patients distributed?
- If you need OR time, is time available, or is the OR schedule full?
- How is OR time assigned to the new doctors?

NEGOTIATING YOUR CONTRACT LIKE A PRO

Partnership buy-in

- If a partnership, when will you buy in?
- How will the buy-in work and how much will it cost?
- Will you be buying the building?
- How will the building value be determined?

Office and equipment

- Will you own, rent, or be supplied an office?
- Who supplies the personal office furniture?

Other benefits and income sources

- Are there any ancillary businesses you can participate in, like a surgery center or lab?
- Are there any other perks, such as a gym membership?
- If you bring a new procedure to the practice, will they support it?
- If you eventually wanted to work part-time, will they support it?
- Will they provide an automobile allowance?
- Will they pay for your dues and subscriptions?

Other obligations

- Will you be required to attend any monthly or annual meetings?
- Are there any social/learning events like a journal club?
- Are you expected to make any lectures or presentations?
- Will you have any research obligations?
- Will you have committee obligations?
- Are there any students or residents you will be teaching?

Staff and other resources

- Will you have a physician's assistant or nurse practitioner working with you?
- Do they provide any special electronic medical records training?

NEGOTIATING YOUR CONTRACT LIKE A PRO

The more issues you address before your first day of work, the less likely you are to have misunderstandings. Spending time thinking about what you desire from the practice and prioritizing your list will put you in a much better negotiating position. You should be fully aware of what items are nonnegotiable for you and on what items you are willing to compromise.

You are more likely to get
what you want when you know
what you want.

About the Author

Dr. Cory S. Fawcett's passion for teaching personal finance spans his entire career. Through one-on-one counseling, as a Crown Financial Ministries small group discussion leader (a ten-week Bible study on money management), and as a keynote speaker, he has been improving people's financial and professional lives for years. As an instructor for medical students and residents, he has found they have a hunger and need for financial wisdom and direction, as they transform into practicing physicians.

With his financial interest and background knowledge, he has served on several boards and financial committees throughout the years, and remains on some of them today. He has been involved as owner, founder, or partner in more than two dozen business and real estate ventures.

The lack of surgeons in rural areas and his desire to work less led him to the decision to retire from his twenty-year practice, in a town with ten general surgeons, and assist in underserved areas. In February 2014 he began working part-time in rural Oregon towns with only one or two surgeons. With just one surgeon in town, the call burden of 24/7 availability is unsustainable. Dr. Fawcett provides them with a needed break from their pager, helping to keep rural surgeons healthy.

His current mission is teaching doctors to have healthy, happy, and debt-free lives—to regain control of their practice, their time, and their finances. He is writing, speaking, and coaching in an effort to improve the lives of his colleagues. Burnout, suicide, debt, and bankruptcy are increasing among physicians, dentists, optometrists, chiropractors, pharmacists, nurse practitioners and others in the healthcare industry, and he focuses on halting the progression of these unnecessary outcomes.

Dr. Fawcett is the author of *The Doctors Guide to Starting Your Practice Right*, which will be released in May 2016, and a speaker, entrepreneur, and now semi-retired general surgeon. He completed his bachelor's degree in biology at Stanford University, his doctor of medicine at Oregon Health Sciences University and his general surgery residency at Kern Medical Center. After completing his training, he returned to southern Oregon to practice for twenty years in a single specialty, private

NEGOTIATING YOUR CONTRACT LIKE A PRO

practice group in Grants Pass. Since 1988 he has shared his home with his lovely bride Carolyn. They have two boys: Brian, who graduated from college with a degree in economics, and Keith, who is currently working on a degree in mobile design.