



American Society of
Anesthesiologists™

Residents In a Room

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VOICE OVER:

This is Residents in a Room, an official podcast of the American Society of Anesthesiologists, where we go behind the scenes to explore the world from the point of view of anesthesiology residents.

You know, as residents, we are so eager to finish up and sign these agreements to finally make some attending money.

Knowing that you do have some negotiating power and identifying what's negotiable.

This is a place where I think I can bring some value.

Are there different types of insurance or common pitfalls that we should be on the lookout for?

DR. MOLLY KRAUS:

Welcome back to residents in a room, the podcast for residents by residents. We're turning things upside down once again. I'm your host, Dr. Molly Krauss, Assistant Professor of Anesthesiology and the Associate Chair of Research in Anesthesiology at the Mayo Clinic in Phoenix, Arizona. And I'm answering practice management questions from residents along with Judy Semo of Semo Law Group. Judy is an attorney specializing in health care law and the representation of physicians and anesthesiologists, in particular, in business.

We're recording this at ADVANCE 2022, the anesthesiology business event. We shared part of our conversation about contract negotiations last month, but our chat was so fun and interesting and informative it just kept going. So here's the rest of what we had to say. Let's meet our interviewees once again.

DR. NIPUR DUA:

Hi, I'm number two. I'm one of the anesthesia residents at University of Minnesota. I'm a PGY3.

DR. REILLY:

Hey, this is Eric Reilly. I'm a PGY3 at Beaumont Hospital in Royal Oak, Michigan, just north of Detroit. Glad to be here.

DR. RYKER SAUNDERS:

Hey, y'all, this is Reicher Saunders. I'm a 3rd year resident at the University of Kentucky.

DR. NATE SUGIYAMA:

Hey, this is Nate Sugiyama. I'm one of the CA3 residents at Beth Israel Deaconess in Boston.

DR. ANDRES DE LIMA:

Hi, I am Andres De Lima and I'm also a PG4 at Beth Israel Deaconess in Boston.

DR. KRAUSE:

Does anybody have a question for Judy?

DR. SAUNDERS:

You know, as residents, we are so eager to finish up and sign these agreements to finally make some attending money. It's something of course we've looked forward to for many, many years, and we are, I think, blind almost to seeing the subtext in these contracts. Would you recommend that residents with their first job out of residency get a lawyer to look through the contract and make sure they fully understand the depth of the agreement that they're signing with?

MS. JUDY SEMO:

So I probably have a conflict of interest in answering that. A couple of things. I think it's important, it would be nice to have legal review. I do think that that's it doesn't hurt and I

will tell you, I see the world in gray. I see a lot of ambiguity when I read contracts. And so I'm attuned to seeing some clauses that I worry about how they can be interpreted.

But let me say you may have mentors in your program who have seen many employment agreements, and they can take a look at it. They can give you a read through. They can say this is A, B and C that I have questions about. So there may be other resources for you.

So having a lawyer? Yes, that's, that's always good. That's always recommended and not your brother-in-law or sister-in-law who does real estate work because that's really not going to help. Can they look at some things? Yes. But they're going to go crazy over some provisions like your privileges terminate immediately upon termination. And it sounds terrible. There's no due process, but that's not your focus. That's, that's probably dictated by the facility agreement. So you're never going to get that changed and somebody else is going to look at that, not understanding that. So look at who in your department might be a good resource to look at a contract for you.

Number two, your state or rather, the State Medical Association, where you may want to practice, may have an in-house resource that is more affordable. So I don't know for sure that they still have it. But for example, the larger state medical associations -- Texas Medical Association, California Medical Association -- may have in-house resources or attorneys to whom they can refer you, who might do it for a fixed fee.

I prepared a guide on reviewing and negotiating employment agreements. I did one version for residents and one version for indices practicing anesthesiologists. I believe they're both available from ASA and those might be a useful guide for you.

DR. DE LIMA:

Dr. Krauss, you've been in our shoes. Is there anything you wish you knew when you were at our stage?

DR. KRAUSE:

So you've been on such a long road to get here and you're finally negotiating your first job, And I think that excitement can hinder you a little bit because you have a job offer and you've arrived and just take it. But knowing that you do have some negotiating power and identifying what's negotiable, if you could make some contacts with the group and get some inside scoop into, you know, what is the same for everybody and they really do not change the contract? And what might you be able to negotiate that might be really important for you? For example, if you're joining an academic medical

center and you want to have some research time or some admin time or education time, generally that's negotiable. And so you can discuss that or, you know, vacation time is important to you or you're comparing two contracts and one has less vacation and. But otherwise, you like that group. Maybe you can go to them and say, You know, I really like this group. I really feel like I could bring a lot of value, but it comparatively has less vacation. Is there a way that we could make this work? So I think just taking the time and evaluating what's important to you and having those points to negotiate.

MS. SEMO:

Did you hear the way Dr. Kraus framed her response? That was really spot on because she was very positive in how she said it. She didn't sound whiny. She didn't sound demanding. She sounded very positive. Yeah, this is a place where I think I can bring some value. I really would like to join here. This is the one part that I have a little concern about. Is there some way we can work it out? I suggest you actually, those of you listening to this podcast, please write down exactly what Dr. Kraus said and use it as a way, I know it sounds funny, but actually that was so good. Write it down and use that to frame your questions. That was really spot on because sometimes people just get a little too... they ask some things, and sometimes it's not people coming out of training. But, where I see the questions the doctor is asking, and I write to my client, is this person really worth it? So having a positive approach is really important.

DR. SUGIYAMA:

So Dr. Krauss, I have a follow up to that. At my home institution, we have some attendings that have negotiated contracts where they work 80 percent or 90 percent of a full time. And my question to that is, With the willingness to negotiate a contract to that degree, 80 percent, 90 percent, does that affect your ability to market yourself effectively? Does that make you less likely to get a job at a private place or a academic institution?

DR. KRAUSE:

So you're saying you want to come in as a point eight FTE position?

DR. SUGIYAMA:

Exactly.

DR. KRAUSE:

Ok, I will say some groups or academic centers may not be open to that, especially right when you join, if that's a nonstarter for you and it's very important for you, then find a group that will do that. It's very common to start out as 1.0 FTE. And then after a few years, if you want to cut back, you know, talk to your chair, talk to your practice leadership and figure out a way that you can make it work for everybody. But if you want to start out at a reduced FTA, if that's really important to you, I think there are places that will, you know, negotiate that.

DR. REILLY:

Judy, some questions about insurance. I mean, as residents, we never deal with it. We're not really a part of coding or anything. But are there different types of insurance or common pitfalls that we should be on the lookout for within know contract negotiations?

MS. SEMO:

Well, you mentioned coding, so that's a whole different kind of issue in terms of billing compliance and those kinds of things, and that is probably going to be an issue for, a liability issue for the employer. But often what you folks need to be focused on is professional liability insurance. And there are two basic forms.

One is called occurrence coverage, which covers you for any claims relating to your services during the time that you were covered by the policy so you don't have to buy a tail.

The other type of insurance is claims made, and it covers you for claims made during the time period the insurance policy is in effect. And then once it expires, you need a tail to provide coverage for that earlier time period. So and usually tails are a certain percentage of your mature premium. And then the question is who pays for tail coverage? And it's often you as the resident who pays, but you need to say, what does it say and is that may be something that may be negotiable. So not always. But the question is how long are you going to be there? So maybe after you're there a certain amount of time, so there may be a graduated scale after a year or two? The employer will pay a certain portion. You'll pay a certain portion maybe after a certain time period. To encourage you to stay, the employer will pay the full tail.

So in addition to that graduated scale, another point is if the employer terminates you without cause, perhaps you can negotiate that the employer will pay for tail. Some employers are willing to do that. So just I'm not saying all of them, but there are some

strategies that you can that you can use, so that may be something you want to consider.

DR. SAUNDERS:

Judy, I have a follow up to the policy question that you were talking about before. So, you know, we talk about these big national groups, any of these folks that are spread over many states, right? Each state has different laws, different policies. How do you reconcile that when, say, a practice has headquarters in New York and you are practicing in a branch that's in Texas when those laws don't necessarily coincide, either with non-compete or intellectual property laws? How do you reconcile that?

MS. SEMO:

Again, it's going to depend on what the contract says, but probably with a large national group, they often have, if you will, affiliates or subsidiaries that are organized in the state in which you will be practicing. And so you would be and you look closely at what is the state law governing the contract. That's probably the state law where you're providing services. And so that's the law that will apply. And they're their policies may be nationwide. But you do need to understand, I don't know it really depends on the on each entity, but you want to understand what the, is there a call policy they may not even have on this. Hospital systems tend to have a lot more policies. National groups may have some. Intellectual property may be addressed in your employment agreement. One private practice that I work with wanted to recruit someone recently, and he was very interested in intellectual property and so the practice really wanted him—he was coming out of residency. And so we wrote the contract that he gets to keep everything, I said, Even if you know, he gets help from you and they really wanted him. So that's how we wrote it.

DR. DE LIMA:

Judy, do you have any thoughts on using a firm to represent clients in the negotiation process? If so, what's the difference between law firms versus business focused solely on physician contract negotiations? And how much should we expect to pay for a service like that?

MS. SEMO:

I understand there are some firms out there that aren't lawyer firms, they're more practice management firms, and they may have some very valuable experience, but I

really think it depends on their experience and what they know about the local market so I really can't comment on that.

It is good to get someone else to look at the contract. Why? Because I will tell you, we all see different things. We're all focused based on our problems we've seen before where we pick up different things. We have different sensitivities. So I can't comment on one over the other, meaning a physician practice management firm versus a law firm.

And how much should you pay? Boy, I bet prices are all over the board. So, many of us are willing to cap fees for looking at a contract and talking to you about it, but not doing extensive edits and definitely not negotiating. I'm sure rates vary quite a bit, so I think you would know anywhere from five hundred to two to two thousand dollars or something I think you would expect to see. I don't think you're going to get it for less, and I imagine the cost could be more.

DR. DUA:

By now, we've bombarded with you with so many questions. Is there a question, Judy, that you think we should ask you that we don't even know to ask? I'm wondering if there are common knowledge gaps that we should be aware of. And if so, are there any resources you would recommend us to be helped with?

MS. SEMO:

One of the things that people don't think about is the importance of having, or at least understanding, what some of the policies are and you're thinking, Well, what are you talking about? You're going to comply with the policies of the employer, but you should at least understand some of the policies. You folks are so insanely smart and creative.

If you're interested in creating software or intellectual property that relates to the practice of anesthesiology. So I have some folks who come to me and they say they're interested in A, B or C. If they're if you're trying to do that or you want to design scheduling software or something like that, you better understand what your employer's intellectual property policy is because you could get really badly burned. Most of those basically say, we own everything you do, written very broadly. So that's one policy you'd want to look at. And the reason I mention it is, as I said, we're all affected by our recent experiences.

So I was looking at an employment agreement for a hospital employment situation, and it turns out that the employers on call policy, so you would want to look at the on call policy, for example. And interestingly, this health system has hospitals scattered around

a metropolitan area that are probably at least an hour and a half apart if you try to plot them on a map. And given the traffic in that area, it's probably a lot farther apart. Anyway, the point is, what it says in this on call policy is you can be depending where you work, you're assigned to cover one half of the geographic region, which means you can take call in many different locations that you would never want to be going to. So that's something that you should understand, you would never get that from the employment agreement, it just says innocently you're going to work at X Hospital. It often often also says a lot of times or at other locations the employer determines that, to me, is another issue. You may not get that change, but you want to have something that says that you're going to be practicing primarily at X Institution you wouldn't be assigned to ... for example, how do you deal with a policy like that that's very broad that you won't be assigned to take call in locations other than your own institution more than x times a month, for example. And certainly, if you're going to be assigned somewhere else that the non-compete you again, it's like a puzzle, so you have to think how it all fits together. So if the non-compete applies to any place you provided services for the employer and you, you know, take calls, some other place or you are assigned for a week at someplace where they're really short staffed. You want to make sure that the non-compete only applies to your primary location or a location where you generated at least 50 percent or some high number. Probably they would do it lower, but 50 percent of the of your anesthesia units. So the non-compete doesn't apply just because you work someplace for a day or a week.

DR. KRAUS:

And as for resources, I would say attending the ADVANCE conference is a great resource for residents. Any time between your CA2 year and fellowship, I think, is a great time to come and learn about contract negotiation, transitioning into practice, finding your first jobs, perfecting your CV and interview skills, et cetera. So I encourage everyone listening to join us at the Future ADVANCE Conference.

Thanks for joining us for this episode of Residents in a Room, the podcast for residents by resident. We hope you learned as much as we did. If you enjoyed the show, please subscribe. Nice reviews are always appreciated. Most importantly, join us again next month.

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