Ask An Attorney

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Q A medical practice is an expensive business to run. My partners and I need to purchase new equipment and replace our office furnishings. We're also considering adding a new partner, and we would like to eventually purchase another building that better suits our expanded practice. We will need to borrow money, and we don't know who to talk to initially about our financing needs. What should we be aware of when we're considering our lending options?

A The good news is that there are many financing options available. Most lenders offer "commercial loans" to finance the start-up or expansion of medical practices, or to purchase or renovate buildings. There are also a wide range of loan products and services with terms and conditions that vary depending upon the purpose of the financing. For example, a "term loan" (which is a loan for a specified length of time usually 10, 20 or 30 years) is used to finance equipment, to purchase another practice, or to finance the start-up costs associated with starting a new medical practice. A "line of credit" is a loan for a shorter period of time (usually no more than five years) which is used to fund short term cash needs until reimbursements have been received or account receivables collected. A "mortgage loan" is used to purchase real estate or to finance construction and renovations to an existing building. Banks will typically finance up to a certain percentage of the value of the real estate being purchased or renovated (75% to 80% is fairly standard). The interest rate that lenders charge can be either fixed or variable – again, depending upon the type of loan and the loan term – but it may be negotiable.

Of course, lenders don't just trust that you will repay the loan as agreed. They secure their loans with "collateral." The type of collateral required depends on the type of loan, but you can expect that a term loan will be secured by a lien on the equipment that is being financed, and that a line of credit will be secured by a lien on your practice's inventory and receivables. If the loan is not repaid as agreed, the lender could commence a collection action and ultimately sell the collateral to repay the loan. While the amount of collateral can be negotiated, most lenders will require that a commercial loan be secured by at least the assets that have been financed by the lender.

It is fairly typical for a lender to require a personal guaranty from anyone who owns 10% or more of a business. By signing a personal guaranty, you should be aware that you are now personally obligated for repaying the loan, and that it's not just the assets of your medical practice that the lender could pursue if you don't repay the loan. The lender could also obtain a judgment against you personally, and could pursue your personal assets to collect on the judgment.

Lenders will consider several factors about you and your practice when they're evaluating your financing needs – and when deciding whether or not to grant you a loan. They will consider not only your years of experience as a physician, but also your credit history and individual financial capacity. Large student loan debt, a shortage of collateral or a lack of money to contribute as a deposit could adversely affect you. However, there are tools available to lenders to offset these types of shortcomings – and savvy lenders are aware of them. For example, lenders can apply to the U.S. Small Business Administration for help with shoring up collateral shortfalls or offering better loan terms (such as longer loan terms to stretch out the loan repayment period and decrease the monthly payment amount).

A lender who decides to grant you a loan will summarize all of the loan conditions and collateral requirements in a document called a "commitment letter." You should review this document to ensure it's consistent with your conversations with the lender, and that it accurately reflects your agreement as to the loan amount, the purpose of the loan, the interest rate and term, any fees due to the lender, and the collateral that will secure the loan. Remember that many of these terms are open to negotiation.

So who should you talk to first about your financing options? You can start with the bank where you maintain your business account. Your professional advisors, such as your accountant and your attorney, should also be able to recommend lenders with whom they've worked, and they should also be able to help you analyze your options among different lenders. This might also be a good time to analyze or reassess your legal business structure.

Loan documents are complicated legal documents that should be reviewed by your attorney before you sign them. In fact, don't wait to consult with an attorney or accountant until after you've signed a commitment letter from a lender. Consult with your attorney and accountant before you do so to ensure that you've obtained the best financing deal for your practice, on the best terms, and with the appropriate amount and type of collateral.

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