

Planning Ahead Key To Secure Retirement

The good news is that Americans are living longer. Average life expectancy in the United States rose to a record 77.6 years in 2003 from 77.3 years in 2002, according to data from the Centers for Disease Control and Prevention. At the beginning of the 20th century, life expectancy in the U.S. was 41 years. Now, more than 4 million U.S. residents are age 85 and up, while those 100 and up are the fastest-growing subpopulation of the elderly.

The bad news? Extended life expectancies mean longer retirements and more years without earned income. For physicians, it is crucial to save extensively during your peak earnings years, so that you'll have ample funds in later life. Especially now that the future of Social Security is a matter for debate, you need to provide for your own retirement, if you want to truly enjoy it.

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put away substantial sums for later decades. Your practice can sponsor such a plan, which will enable you to reduce current income taxes while accumulating a personal nest egg.

Moreover, offering a retirement plan can help your practice succeed in today's competitive environment. Large medical institutions routinely offer retirement plans as an employee benefit. By offering your own plan, you can attract and retain the qualified people you'll need as colleagues and employees.

How much will you need to retire? Probably a lot more than you may expect. Financial advisers say that physicians should try to accumulate between \$2 million and \$5 million in assets, depending on their lifestyle. “You just might make it with \$2 million worth of investments,” says Sid Blum, a financial planner in Buffalo Grove, Ill. “For some retired physicians, even that much won’t be enough.”

Cheryl Holland, a financial planner in Columbia, S.C., reports that most of her physician clients are planning to accumulate around \$3 million before they retire. Other advisers suggest that doctors raise their sights to \$5 million, in order to have a truly comfortable retirement.

“My clients might plan to spend anywhere from 60 percent to 125 percent of their current spending after they retire,” says Marjorie Fox, a financial planner in Falls Church, Va. **“Among physicians, it’s common for them to spend as much after retirement as before. Life insurance and disability insurance premiums might go down, but vacations and other recreational expenses may go up.”**

Those numbers may seem daunting but the math is hard to dispute. “My clients might plan to spend anywhere from 60 percent to 125 percent of their current spending after they retire,” says Marjorie Fox, a financial planner in Falls Church, Va. “Among physicians, it’s common for them to spend as much after retirement as before. Life insurance and disability insurance premiums might go down, but vacations and other

recreational expenses may go up.”

Mr. Blum says that it is wrong to assume you’ll need less income in retirement. “My clients who are retired physicians still like to dress well, to drive nice cars, and to play golf,” he says.

Assume, for example, that a physician grosses \$200,000 per year. After taxes and investments (including retirement plan contributions), that doctor might net and spent \$120,000 per year. That’s a reasonable target for retirement spending.

What’s more, that number needs to be adjusted for inflation. “We use a 3-percent inflation rate while other planners might use 3.5 percent or 4 percent,” Ms. Holland says. That is, a doctor who wants to spend \$120,000 after retiring at age 62 would have to spend about \$125,000 at age 63, \$130,000 at 64, etc., to main-

tain the same living standards. Other advisers prefer to use a 4-percent inflation rate.

Assuming an inflation rate of 3 percent to 4 percent, spending doubles in 20 to 25 years. Will a doctor who needs \$120,000 at age 62 really have to spend \$240,000 at age 85? “I believe that’s realistic,” says Ms. Holland. “I have clients who are in their 80s who are just as active now as they were 15 or 20 years ago. Doctors who retired 10 years ago have seen their expenses increase steadily, and that likely will continue to be the case.”

Mr. Blum notes that elderly retirees may eventually spend less on travel but may have to bear increasing costs of medical and custodial care.

Indeed, projecting out retirement expenses may go beyond 20 or 25 years. “I typically project retirement expenses until age 100,” says Ms. Holland. Thus, retirement may last for 35 years.

Changes in Spending: Pre-retirement vs Retirement

On average, retirees’ overall annual spending does not drop much from that of their working days. Here’s how the numbers stack up for a retiree who earned an annual income of \$90,000 during his/her working years:

	Working	Retired
Reading and education	\$794	\$722
Healthcare	2,430	3,714
Utilities	3,335	3,217
Other household expenses	548	1,005
Shelter	11,167	8,816
Entertainment	2,465	2,977
Food	6,965	6,919
Apparel and services	1,952	1,908
Transportation	11,368	10,674
TOTAL CHANGE IN SPENDING		-\$1,072

Source: 2004 Annuity Fact Book, National Association for Variable Annuities, citing data from Aon Consulting.

Once you have calculated how much you'll need for spending in retirement, the next step is to determine where that money will come from. Social Security is one source, although there may be changes in the level of benefits down the road. "We include Social Security in our projections," says Ms. Holland. "However, we project that benefits will increase slowly, at 1.5 percent per year, and that benefits will be fully taxable."

In 2005, the maximum monthly Social Security benefit for a person retiring at full retirement age is \$1,939, for an annual total of over \$23,000. An early retiree could collect as much as \$18,600 per year in benefits at age 62. Among married couples, a spouse might get an additional benefit equal to 50 percent of these amounts. Under current tax law, up to 85 percent of Social Security benefits will be taxed.

Besides Social Security benefits you should consider whether other income will come from a spouse's earnings, a pension or rental income. Some physicians retire with plans to work part-time or start a sideline business. "Consulting and serving as an expert witness are options for physicians," says Ms. Holland, "but most people who retire really want to be retired. One of my

How to Accumulate \$3 Million

Saving \$3 million is a daunting goal—unless you get a very early start. Following is the monthly savings required to accumulate \$3 million over specific time periods, by varying rates of return.

Number of years to save	Annual returns		
	6%	8%	10%
10	\$18,306	\$16,398	\$14,645
15	10,316	8,670	7,238
20	6,493	5,093	3,951
25	4,329	3,154	2,261
30	2,987	2,013	1,327
35	2,106	1,308	790

Note: Computed using Deposit Calculator on www.fundadvice.com.

clients is a physician who loved his work. He retired at 70 but planned to keep up a part-time practice. Six months later he stopped working altogether, saying, ‘What am I doing this for?’”

Making Your Money Last

With Social Security benefits limited, many physicians will depend largely upon an investment portfolio to provide retirement income. How large a portfolio will you need to provide an income that starts at, say, \$120,000 per year and gradually escalates? Again, that depends on various assumptions you make. How much will you be able to invest each year, and how rapidly will your investments grow?

“We project returns of 8 percent pretax and 6 percent after tax from a mixed portfolio of stocks and bonds,” says Ms. Fox. “You need

In order to retire comfortably, physicians must accumulate 15 to 25 times the amount they wish to spend in retirement. If you’re going to retire at 60 and you’ll need \$100,000 per year from your portfolio, a \$2.5 million goal might be realistic; if the goal is \$120,000 per year, \$3 million might be your target.

to be very prudent because you won’t earn a steady 8 percent each year. You’ll have some ups and downs over the course of your retirement; a sharp market correction in the early years of your retirement may have an adverse impact on your entire plan.”

Besides investment returns, you have to decide how much you can invest each year and how those investments will be allocated. Apply projected returns to the amount saved and you’ll see how much you’re likely to accumulate, over how many years. Then you can see whether that amount will be sufficient to support the desired levels of spending over a long retirement.

Is there any way to shortcut this process to get a rough idea of how much you’ll need in retirement? For many financial advisers, the maximum annual draw they’d suggest for a retiree who is young and in good health would be 4 percent. Someone retiring at age 70 can be a little more aggressive with the draw, because of the shorter retirement period, so the withdrawal might go up to 6.5 percent or 7 percent.

From there, you can back into a retirement goal. That is, a doctor retiring with a \$1 million portfolio could comfortably with-

draw \$40,000 a year, assuming a 4-percent withdrawal rate, while a much older retiree might withdraw as much as \$70,000, or 7 percent. (Retirement projections usually assume that these initial amounts increase each year, to keep up with inflation.) Turning these numbers around, in order to retire comfortably, physicians must accumulate 15 to 25 times the amount they wish to spend in retirement, if they want to avoid running short of money.

That is, if you're going to retire at 60 and you'll need your portfolio to provide you with \$100,000 per year, a \$2.5 million goal might be realistic; if the goal is \$120,000 per year, \$3 million might be your target.

Drawing Down Assets

Before you get to that point, though, other sources of income should be recognized while seeking the how-much number. "The biggest fallacy of using a 4-percent withdrawal rate, which is then

Retirement Rules of Thumb

In the U.S. today, a 65-year-old man has a 50-percent chance of living to 85 and a 25-percent chance of living to age 92, according to the Society of Actuaries. Women will be living even longer. By 2030, there will be 70 million people over the age of 65, reports the Alliance for Aging Research. To help Americans address these new realities and make wiser retirement planning decisions, the National Association for Variable Annuities has published "Five Retirement Rules of Thumb:"

■ **The 100-percent rule.** Past analyses have indicated that retirees can live on 70 percent to 80 percent of their pre-retirement income. However, given rising medical costs and longer, more active lifestyles, you will most likely need close to 100 percent of your pre-retirement income in retirement.

■ **The two-thirds rule.** According to the Social Security Administration, Social Security typically provides only about one-third of a retiree's post-retirement income needs. Therefore, at least two-thirds of your retirement income will need to come from other sources. For physicians, however, Social Security may provide much less than one-third of the income you will need post-retirement, so even more savings probably will be necessary.

■ **The 13-times rule.** To receive guaranteed lifetime income payments

indexed for inflation, is that everyone has some income,” says Dave Foster, a financial planner in Cincinnati. “A couple might have a goal of \$70,000 worth of retirement income, for example. If they have \$20,000 coming from Social Security benefits, they need only \$50,000 from their investment portfolio, and \$50,000 per year from a portfolio is a much more reasonable number than \$70,000.”

If a 25:1 ratio is desired, you’d need \$1.25 million in investment assets to withdraw \$50,000 in year one, rather than the \$1.75 million you’d need if \$70,000 is your year one goal. Research has shown that a 65-year-old with a balanced portfolio can safely draw down 4 percent (1/25) in year one of a retirement, increasing that drawdown by the inflation rate. Based on historical results, such an investor wouldn’t run out of money over a 35-year retirement.

“You’re better off with more sophisticated calculations,” says

by purchasing an annuity, you’ll need approximately 13 times the annual income you would like to have in retirement. For example, in order to receive approximately \$50,000 per year in lifetime income payments from an annuity, you will need to invest around \$650,000.

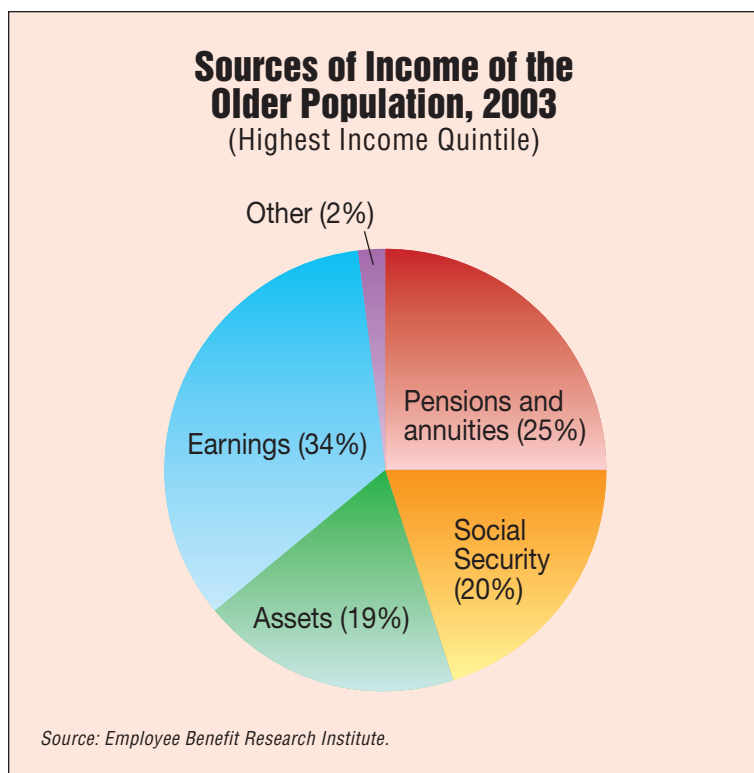
■ **The 110 rule.** Historically, as investors age, their portfolios typically include an increasingly higher percentage of fixed-income investments and a lower percentage of riskier equity investments. However, given that many Americans are living longer today, they may need to keep a higher percentage of assets in equities. Utilize the 110 rule to determine the allocation of your retirement investments by subtracting your current age from 110, and the result is your equity allocation. By this rule, a 65-year-old would have 45 percent (110 minus 65) of his or her portfolio in stocks. The remaining 55 percent would be allocated to bonds and cash. A 75-year-old would allocate 35 percent to equities and the remaining 65 percent to fixed-income vehicles.

■ **The rule of 72.** Your retirement savings plan should take inflation into account. You can use the rule of 72 to determine the number of years it will take for your money to be worth half its current value at a given inflation rate by dividing the inflation rate into 72. With a 5-percent inflation rate, for example, divide 5 into 72: your money would lose half its value in 14.4 years.

Ms. Fox. “For example, there’s a difference between money accumulated in a tax-deferred retirement plan and money held outside a plan.”

All plan withdrawals are fully taxed, so you might have to withdraw \$100,000 to get \$60,000 to spend; the tax bite will probably be much lower if the money comes from after-tax investments. Moreover, says Ms. Fox, required minimum distributions from retirement plans take effect after age 70½, and such distributions must be taken into account.

As you’d expect, most financial advisers will be able to help you calculate how much you’ll need to accumulate and when you can retire, using packaged or proprietary software programs. Mutual fund companies such as Vanguard and T. Rowe Price provide free programs you can use to do your own calculations. Some



simple savings and investing calculators are available free at www.fundadvice.com/tools/calculators. Fee-based services on the Web, such as those offered by www.financialengines.com, can also help you to calculate your needs.

“With the right software you can do all sorts of ‘what-if’ manipulation,” says Mr. Blum. “A doctor who’s 63 with a 62-year-old spouse might want to spend \$140,000 per year, increasing each year for inflation at 3.5 percent, until age 95 for both spouses. A good program might show that it will be a tight squeeze with a \$2 million fund, but a slightly larger investment account will provide a cushion.”

If you calculate that your projected needs are greater than the amount you’re on track to save, one option is to keep working. Each year that you continue to work is a powerful variable in reaching retirement goals. It is another year in which you can fund your retirement plan while you’re not consuming assets.

Indeed, physicians may need more than a slightly larger fund for a genuinely luxurious retirement. Suppose, for example, a doctor accumulates \$3 million in a retirement plan and this plan earns 8 percent per year. That’s \$240,000 pretax, or about \$150,000 after tax, which may be the amount the physician spends right now. If 8 percent is withdrawn each year, the fund won’t grow and that doctor will wind up spending \$150,000 in today’s dollars in 20 years, when his or her buying power has been cut in half. Going by such numbers, doctors might aim to have over \$5 million in their plan if they really want to live well in retirement.

If you haven’t started on your second million yet, much less your fifth, the message is clear: start now, invest as much as you can, and hope that the bulls will start running again as they did in the 1980s and 1990s.

If you calculate that you’ll need, say, \$2 million to retire but you’re on track to accumulate only \$1 million, what can you do? One possibility is to spend less in retirement, but that’s not always a viable solution.

Another option may be to keep working. Each year that you continue to work is a powerful variable in reaching retirement goals. It is another year in which you can fund your retirement plan while you’re not consuming assets. If you continue to work,

the multiple of spending will go down, when calculating how much is enough. That is, you might be comfortable with a 20:1 multiple at age 68, rather than a 25:1 multiple at 62.

Another possible approach is to liquidate nonfinancial assets to provide additional capital. The continued strength of the housing market may mean that real estate will play a large role in your retirement plans. If you own two homes, for example, selling one of those homes can help provide money for retirement.

Even if you own one home, you may find retirement funds there. You might downsize a personal residence or even move to another area of the country where housing is less expensive. The tax code helps because you can sell a house and exclude some capital gains from your taxable income. This tax break, which applies to a primary residence after two years' occupancy, permits an exclusion of \$250,000 for single taxpayers and \$500,000 for married couples.

Taking the Early Way Out

Increasingly, physicians are working as employees rather than employers. What if the organization for which you work offers you an early-retirement package? Paul Gydosch, a financial planner in Columbus, Ohio, provides this checklist:

- **Find out if you really have a choice about accepting the offer.** If the offer is company-wide, you may be able to turn it down with no repercussions. However, if the offer is made to a select group of employees, you may find your position eliminated in a few years anyway, without the financial incentives.
- **Get help from a financial professional.** You may need to compare several options that require complex calculations, such as what your retirement benefits would be at normal retirement age versus the current offer, how early retirement would affect your other retirement investments, and how to handle pension distributions.
- **Determine if a Social Security supplement is offered.** Many early-retirement offerings provide an annual payment until Social Security benefits start at age 62.
- **Find out what health insurance will be provided, at what cost.**
- **Find out about your professional liability insurance coverage, too.** See if it will continue to protect you for actions while you were in practice, and what the cost will be.

Not every physician will be willing or able to keep working or to cash in home equity. Many doctors, though, can increase the pace of pre-retirement investing to build a larger retirement fund. Saving more now may mean that after you retire you can go to Europe every year instead of every other year; similarly, saving more now can be the difference between driving a Lexus or a Volkswagen after retirement.

Early Retirement Possible?

Retiring at a typical age of 62 or 65 is difficult enough, if you need \$2 million, \$3 million or \$5 million to support your lifestyle. Many physicians, though, want to retire while they're still in their 50s, or even their 40s. The younger you are when you retire, the more years you'll have without earned income, so the more you'll have to save.

Genevia Gee Fulbright, a CPA in Research Triangle Park, N.C., says that early retirees may want to consider semi-retirement instead of full retirement. "It's not just the money," she says. "It's a

One concern for all early retirees is health insurance. Medicare coverage doesn't begin until age 65. If your spouse is still employed and covered by an employer's plan, family coverage may be available. Or you may be able to continue your former employer's coverage under COBRA for up to 18 months.

question of 'what do I do?' for all those years. You can't play golf all the time." Doctors may be able to retire, then go back to their old practice for a couple of days a week, practicing medicine without the headaches of running an office.

Another concern for all early retirees is health insurance. Medicare coverage doesn't begin until age 65. Therefore, you need to have some form of insurance to protect yourself and your family from the huge bills that might result from an illness or injury.

If your spouse is still employed and covered by an employer's plan, family coverage may be available. "Otherwise," says Ms. Fulbright, "you may be able to continue coverage under your former employer's plan, if you were covered by such a plan."

If you were a participant in your former employer's health insurance plan, you're eligible for coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA), a federal law.

To extend your group health coverage after leaving the company, you have to pay the entire premium plus administrative costs, which may be steep. Not only is COBRA coverage expensive, it's generally limited to 18 months, which may not carry you through to age 65, when you will qualify for Medicare.

Even if you're financially secure, with solid health insurance, the decision to retire early may not be simple. If you still have kids in high school, you probably won't want to retire and be around the house. Also, you may not want to retire if none of your friends has retired—most people don't want to be the only one not working.

Spousal relations are critical, too. Some spouses have been heard to say, "I've been the director of the house for years, and I do a good job. Now I'm going to get a new boss telling me that what I'm doing is not so great." Thus, you might discuss this issue with your spouse before taking early retirement. A happy early retirement, like so much else in life, begins at home.

Plans Offer Many Benefits

While many issues will affect your ability to retire—or to retire early—none is as important as building up a sizable investment portfolio that you can tap for income. In order to accumulate investment assets, you'll probably want your practice to sponsor a retirement plan. Contributions to the plan will reduce your practice's taxable income, which probably will trim the personal income tax you'll pay each year.

Money inside the plan can be invested, and any investment income will escape current taxation. When the money ultimately is withdrawn during your retirement, you may be in a lower tax bracket; in some cases, you may have moved to a lower-tax state. Thus, sponsoring a retirement plan not only will defer tax, it may also reduce your tax burden.

You and your practice will enjoy other benefits as well. If your practice wants to attract other physicians, including young associates, it will need to offer a compensation package that includes a retirement plan. The same is true when your practice is recruiting other professionals (nurses, physician assistants) or other staff members.

What's more, the presence of a retirement plan is good for em-

ployee morale. Your practice not only will be able to hire a high-quality work force, it will be more likely to retain prized employees with an appealing retirement plan. In today's competitive medical profession, offering attractive employee benefits is necessary to avoid costly turnover.

There is yet another advantage for physicians whose practices sponsor retirement plans. With jury awards ever increasing and malpractice coverage dwindling in many states, many physicians are anxious about creditor protection. If you wind up on the wrong end of a damages award, your creditors naturally will want to seize your assets.

Fortunately, there is some good news in that area. An employer-sponsored retirement plan not only can defer income taxes, it may provide substantial shelter from creditors. "Under ERISA, which is

"Under ERISA, which is a federal law, defined contribution and defined benefit plans are protected from creditors in bankruptcy actions," says Nick Misenti, an attorney of counsel to C.W. Briggs & Associates, a law firm in Glastonbury, Conn. **"Almost all states extend this protection to their own courts, in civil actions."**

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This protection may prove to be powerful, indeed. In one case, a California physician who operated his practice as a corporation filed for bankruptcy. "The physician had accumulated nearly \$2 million in a retirement plan," says Mr. Misenti. "California, like many other states, exempts assets in a retirement plan from liquidation."

The physician's creditors challenged the \$2 million exemption on the grounds that it was unfair. "The court agreed with the creditors that the exemption was unfair," Mr. Misenti says. "But the court found that it was powerless to ignore the exemption. As a result, the physician eliminated all of his debts and walked away from bankruptcy with \$2 million. Had he withdrawn that \$2 million from the corporation and invested it in a personal portfolio

outside of a retirement plan, he would have lost the \$2 million.”

Such court decisions might lead you to expect that your retirement plan is safe from creditors, but that may not be the case. “For one thing,” says Mr. Misenti, who provides all the asset protection content on www.toolkit.cch.com, a Website that offers business, legal, and tax information for small businesses. “A retirement plan is not protected under ERISA if it covers only owners and spouses. You need other participating employees.”

Thus, a retirement plan that covers only you and your spouse won’t be sheltered from creditors by ERISA. Similarly, if a number of physicians are all shareholders in a group practice, with or without spouses, retirement plan assets won’t be protected by ERISA unless other employees also participate.

Such plans are considered to be “non-ERISA” plans, in the language of asset protection specialists. IRAs, Roth IRAs and SEP-IRAs also are non-ERISA plans while SIMPLE IRAs, an increasingly popular plan that was created a few years ago, remain a gray area. If asset protection is a key concern, you may be better off with a SIMPLE 401(k) plan, even though more paperwork will be involved. You should have employees other than your spouse participate in your SIMPLE 401(k), too.

What kind of asset protection do you have with non-ERISA plans? “That’s a function of state law,” says Mr. Misenti. “Each state has its own rules, providing more or less asset protection. What’s more, different types of retirement plans may have varying levels of asset protection, within one state.”

In many states, owners of IRAs and other non-ERISA plans are allowed to protect what’s “reasonably necessary” for the support of the debtor and the debtor’s dependents. This will be a subjective judgment, determined by the courts on a case-by-case basis. What is considered to be reasonably necessary may be determined by several factors, such as your present and anticipated living expenses, present and anticipated income from all sources, your age and the ages of your dependents, and so on. A substantial amount of your retirement assets might be sheltered—or most of the money in your account might be awarded to a creditor.

“The bottom line,” says Mr. Misenti, “is that you should know what the rules are in your state.” If your state does not have strong asset protection for IRAs, you may want to keep your retirement

assets inside an ERISA plan instead of rolling money into an IRA. If you're thinking of relocating to another state, find out about the new state's asset protection rules.

These rules are evolving, so you should check with a knowledgeable attorney from time to time to see if there have been new developments. "However, if your assets are being threatened, moving to a state that will protect those assets might be considered fraudulent," Mr. Misenti says. The principle of "fraudulent conveyance" applies to retirement plans. That is, if you make a

Older Physicians Plan Practice Changes: Survey

Over half of physicians between the ages of 50 to 65 are planning to retire, seek non-clinical jobs or significantly reduce the number of patients they see in the next one to three years, according to a survey conducted by Merritt, Hawkins & Associates, a national physician search and consulting firm based in Irving, Texas.

"Traditionally, physicians in their 50s and early 60s have been the workhorses of medicine," notes Joseph Hawkins, chief executive officer of Merritt, Hawkins & Associates. "If these physicians stop seeing patients, millions of patient visits will have to be absorbed by an already limited number of doctors."

The survey indicates that 8 percent of physicians between 50 and 65 plan to retire in the next one to three years; 10 percent plan to seek non-patient care medical positions; 3 percent plan to seek jobs outside of medicine; 6 percent plan to work on a temporary basis; 17 percent plan to close their practices to new patients or significantly reduce their workloads, and 7 percent plan to seek other nonclinical career alternatives. Physicians 50 or older comprise 38 percent of all doctors, according to the American Medical Association. Over 255,000 physicians are between the ages of 50 and 65, the AMA reports.

Merritt Hawkins notes that in a similar survey conducted in 2000, 38 percent of older physicians indicated they would retire in the next one to three years, compared with only 8 percent in 2004. "The 2000 survey was conducted prior to the economic downturn and the decline of the stock market, which we believe has inhibited the plans of many older physicians to retire early," the company says. "However, the 2004 survey indicates that many older physicians continue to seek alternatives to traditional clinical practice, though they may not be in a position to retire."

move with the intent of moving assets out of the reach of known or likely creditors, that move may be disregarded by a court, exposing those assets to your creditors.

If there are clouds on the horizon, then moving to a debtor-friendly state may not be the answer. Instead, you may want to keep your retirement fund inside your employer-sponsored plan, where federal law can keep creditors at bay.

Favorable Supreme Court Ruling

Creditor protection for IRAs was enhanced by a Supreme Court decision announced in early 2005. The case involved Richard and Betty Jo Rousey, a couple who sought to shield \$65,000 in their two IRAs. The couple took lump-sum distributions from their former employer's retirement plan when they left the company in 2002. They rolled over the proceeds into the two IRAs.

Several years later, the Rouseys filed for bankruptcy under Chapter 7 of the bankruptcy code, in which a court-appointed trustee supervises the sale of any non-exempt assets and distributes the proceeds to creditors. Three different courts agreed with the bankruptcy trustee that the Rouseys' IRAs were not exempt and were thus available to creditors.

In 2005, though, the Supreme Court decision overturned the lower courts and held for the Rouseys. According to the unanimous opinion, the 10-percent penalty tax that applies to withdrawals from an IRA before age 59½ meant that Congress intended to deter early withdrawals and encourage people to use these accounts for retirement.

The Supreme Court went on to say that an IRA is similar to the pension plans that ERISA explicitly exempts because an IRA has the same primary purpose—encouraging Americans to save for retirement. The opinion pointed out that there is a severe tax penalty for those who do not take minimum required withdrawals from an IRA after turning 70½. Again, this provision emphasizes the use of IRAs as retirement accounts, which enjoy creditor protection.

Although this is certainly a favorable decision in terms of protecting IRAs from creditors, its ultimate impact is unclear. "In general, extremely large account balances may still have 'excess'

amounts subject to creditors, even with the protection granted to IRAs with this ruling,” says Michael Kitces, director of financial planning at Pinnacle Advisory Group in Columbia, Md. “This level of creditor protection is not the same as ERISA protection, which universally preempts state law and always provides creditor protection. It’s also questionable whether the ruling will apply to Roth IRAs, which have far fewer age-based restrictions than traditional IRAs.”

Thus, IRAs still do not have the same level of bankruptcy protection as 401(k)s, pensions and profit-sharing plans, which are shielded from creditors under federal law. A federal bankruptcy law passed by Congress in the spring of 2005 may provide greater security. This law includes a provision allowing people who file for bankruptcy to protect up to \$1 million in an IRA from creditors.

The new federal exemption aims to treat IRAs more like traditional pension plans, which are generally protected in bankruptcy proceedings. Reportedly, though, 35 states have laws saying they won’t recognize this type of federal exemption, so it would be a moot point in those states. The bottom line, not surprisingly, is that you still need to check with an attorney about asset protection before you roll over an account in an employer-sponsored plan to an IRA.