



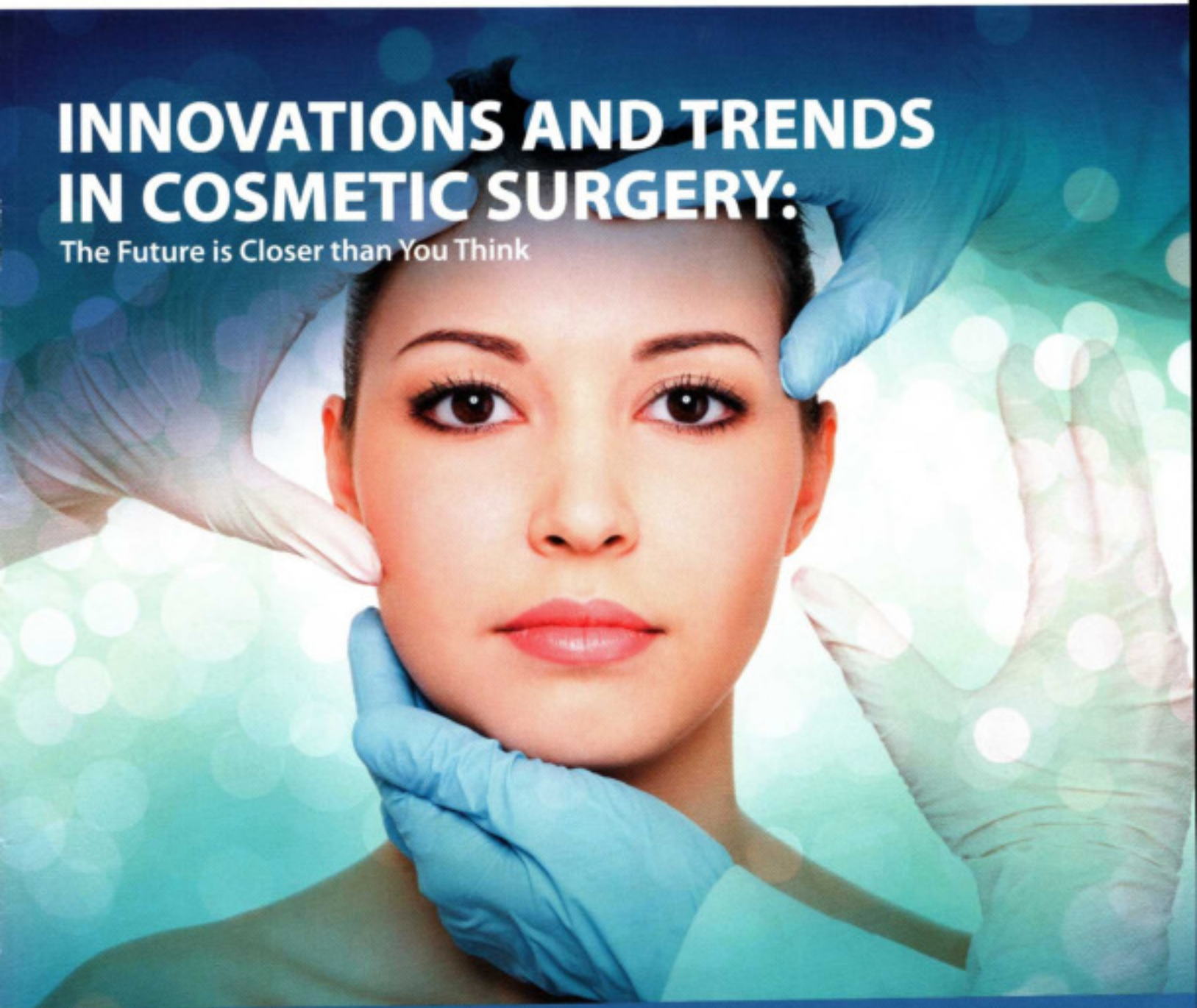
SURGE

A PUBLICATION OF THE AMERICAN ACADEMY OF COSMETIC SURGERY

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INNOVATIONS AND TRENDS IN COSMETIC SURGERY:

The Future is Closer than You Think



+ Advancements in the Mommy Makeover

+ Insights Into Stem Cells



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Preparing for the Unexpected
The final installment in a four-part series.

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Preparing for the Unexpected in Your Medical Practice

Part 4 of 4

In my previous article I mentioned the many potential regulatory violations that could occur between the death of a physician and the closing of the medical practice. Now I will describe the many steps you, as a physician, should take to protect yourself and your spouse/partner from potential financial, professional and legal distress.

I have seen one instance in which an attorney and accountant prompted their client to sign a revised last Will and Testament while the spouse was not in the room. The client, a physician, was under the influence of intoxicating narcotic drugs and only days away from their last breath.

I've learned that one can never be too careful when dealing with:

Unscrupulous Accountants and Attorneys

Be extraordinarily careful when hiring and appointing the personal representative and attorney who will handle your estate. All of the promises you may have wanted carried out could actually devastate your family members. The financial gain to the personal representative, accountant and attorney is only accomplished by what and how much they can bill to the estate. This means the more litigation they create, the more they can bill as expenses.

In some cases, be certain to insist that your taxes are filed identically as in the past. There have been cases where an unscrupulous accountant has filed an extension on annual taxes while a physician was ill. After the physician passed away, the accountant filed the taxes individually instead of as a joint return — unknown to both the physician and spouse.

Financial and Real Estate Asset Protection

Whenever possible, insist your real estate is titled as tenants by entirety with the right of survivorship; not as a partnership in any manner. Upon your death, your share of the partnership will automatically go to the estate and not to your surviving spouse. Because the estate's representatives (accountant/attorney) don't actually own the property, they have no stake in maintaining the value of the real estate (particularly in a depressed economy). These expenses can include the principal/interest on the mortgage, HOA dues and fees, liability insurance on the respective property, etc.

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The result: the surviving spouse is left holding the majority of the debt as the estate holds the property hostage until the court demands the release. Your spouse may have to purchase your share back out of the estate in order to maintain the property or, worse yet, avoid foreclosure.

Irrevocable Life Insurance Trust

This is a tool that allows you to set up a trust that avoids the taxes on the proceeds of a life insurance policy. You must set up the trust and pay the life insurance premium from the trust and then make the trust the owner of the insurance policy. Once you are deceased, the named beneficiaries of the trust will receive the money tax-free.

Personal Guarantees on Lines of Credit

Be careful not to allow your spouse to be a co-signer on any line of credit to your corporation. Once you pass away your surviving spouse will be responsible as a co-guarantor on the note. If the bank insists on having your spouse as a co-signer, have your spouse place a lien on the practice in the amount of the note. This step will make your spouse a secured creditor. Once you pass away, your surviving spouse can then enforce the lien and repossess items from the estate to pay off the debt.

Tangible and Intangible Assets and Taxation Responsibilities

Insist your will mandates all taxes incurred and due to any taxing authority are paid by the estate (and not by your surviving spouse). In some instances, once you pass away the county or state will try to sell assets in order to pay the previous year's taxes. Authorizing the estate to pay taxes due will save your spouse the devastation of footing the bill with whatever limited cash might be available.

Unexpected Personal Legal Fees

Once you pass away, your surviving spouse could potentially be awash in legal fees. Several of the issues I've mentioned above are illustrations of what could arise from personal representatives creating situations

that could force your spouse to fund the estate. Just to illustrate, I have seen one instance in which an attorney and accountant prompted their client to sign a revised last Will and Testament while the spouse was not in the room. The client, a physician, was under the influence of intoxicating narcotic drugs and only days away from their last breath.

Was this legal? Probably not. But the cost of going to court only adds to your spouse's expenses and grief.

Fortunately, there are many steps that can reduce the risk and avoid the unexpected.

- Insist both you and your spouse are in agreement to everything you want when you pass away.
- Try not to use the same accountant and/or attorney you use during your lifetime for your personal and business relations.
- Make sure your children are brought into the loop and understand what you really want (so that they can't be potentially influenced by the accountant and attorney).
- Have advanced directives and a living will.
- Plan your funeral arrangements ahead of time to limit the stress of your family members.
- Have your medical practice properly evaluated and try to find a buyer while you are still alive – particularly if you have a terminal illness. Once you pass away, your practice won't be worth what you think it should be.
- Be sure your spouse is careful of the opportunists that will try to purchase all of your assets for pennies on a dollar once you pass away. **S**