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News Release

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Warning to Medical Community: Do Not Own Home in Spouse's Name

Provo, UT- June 24, 2004- The National Medical Foundation for Asset Protection warns doctors, and other lawsuit-prone professionals, against transferring homes and other personal assets into their spouses' names for lawsuit protection. Not only does this strategy often NOT provide the supposed protection from malpractice lawsuits, but can even be the basis for fraud if not done according to specific guidelines.

The warning comes as legal consultants across the country continue to report widespread misconception in the medical community that owning family assets in the name of the less-vulnerable spouse is an effective strategy for asset protection. Some estate planners estimate as many as 20-30 percent of the nation's medical doctors engage in this practice. Jay W. Mitton MBA, JD, widely regarded as the 'Father of Asset Protection' and chairman of the Foundation, blames "the nation's lawyers who often give this advice without understanding its implications."

Mitton cites the Uniform Fraudulent Transfers Act and the Uniform Fraudulent Conveyances Act, which states that courts can now consider family relationships in lawsuit proceedings. The statute explicitly says transferring family assets to immediate family members is fraudulent if done as a reaction to a lawsuit. Even if done before a lawsuit, courts may still find the arrangement as an implicit attempt to defraud creditors.

Secondary reasons for this warning include greatly complicated divorce proceedings, increased estate and property tax liabilities, and the possibility of non-physician spouses being sued independently.

Six states, including Texas, Florida, Kansas, Iowa, Oklahoma and South Dakota, have universal Homestead Exemption laws that protect homeowners' residences from being seized in lawsuits. Homestead Exemption laws in the other 39 states are often woefully inadequate for 21st Century housing prices with most protecting between \$10-50,000 of equity in a homeowner's primary residence. Professionals at risk of losing their homes in medical or dental malpractice lawsuits should consider alternative forms of titling their assets, including single-member Limited Liability Companies and Family Limited Partnerships.