Bankruptcy reform: What it means to you

There could be moves you can make now to protect yourself

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Changes in bankruptcy law don't typically interest doctors, but The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 is an exception. That's because under the law high-income individuals will be faced with fewer bankruptcy options—and there could be moves you can make now to protect yourself.

The crux of the new legislation, most of which becomes effective Oct. 17, is a new means test that would make virtually all physicians ineligible for the more-desirable Chapter 7 bankruptcy filing that erases debts. Instead, the law would relegate to Chapter 13—really just debt reorganization—anyone whose income is higher than his state's median and who can afford to pay the greater of $6,000 or 25 percent of his unsecured debt over at least five years.

"Basically, if you have more than $100 left over after you pay your monthly living expenses, a judge will have you file Chapter 13 instead of Chapter 7," explains Marc Singer, whose firm Singer Xenos Wealth Management in Coral Gables, FL, has 450 physicians as clients.

The new law also weakens the homestead exemption and says that if you've lived in your house less than about 40 months, there's a *maximum* exemption of $125,000; some states may limit the exemption even more. Further, nonrollover IRA assets in excess of $1 million are now subject to seizure.

So what does this mean for the average physician? "In addition to not being able to discharge their financial debts, doctors who are self-insured against malpractice may find their personal assets more vulnerable to claimants," explains financial planner and internist Steven Podnos, author of *Building and Preserving Your Wealth* (Oakhill Press, 2005). "Whereas in the past a physician's threat to file for Chapter 7 and have his debts discharged might have pressed the opposition into reaching a settlement, that tactic will no longer be viable, since the income test now places Chapter 7 beyond the reach of virtually all practitioners."

There's no way to predict how the new law will be interpreted and applied, so it's wise to consult a bankruptcy attorney or financial planner on ways to protect your wealth. For example, Singer advises saving as much as possible in protected assets, such as a trust, an annuity, or your home. And if your nonrollover IRA assets exceed the $1 million exemption, Singer suggests moving that money into protected retirement accounts like 401(k) or pension plans, if it's allowed.

There's a silver lining in this legislative cloud: The law that makes it more difficult to discharge your debts will have the same effect on patients who owe you money but have thus far thwarted your collection efforts.