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Poyner Spruill<sup>LLP</sup>  
ATTORNEYS AT LAW

# NEGOTIATIONS: PRACTICAL SKILLS FOR MEDICAL PROFESSIONALS

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# DISCLOSURE SLIDE

- No Disclosures

# LEARNING OBJECTIVES

1

Identify steps to take prior to beginning negotiations

2

Implement strategies to increase confidence and negotiate important terms in agreements

## OVERVIEW

Why Work on Negotiation Skills (2.5 mins)

5 Steps to Take Before You Negotiate (10 mins)

Skills to Implement During Negotiations (10 mins)

Polling Question (2.5 mins)

Negotiations Exercise (15 mins)

Questions (5 mins)

# WHY WORK ON NEGOTIATION SKILLS?



EVERYTHING IS NEGOTIABLE

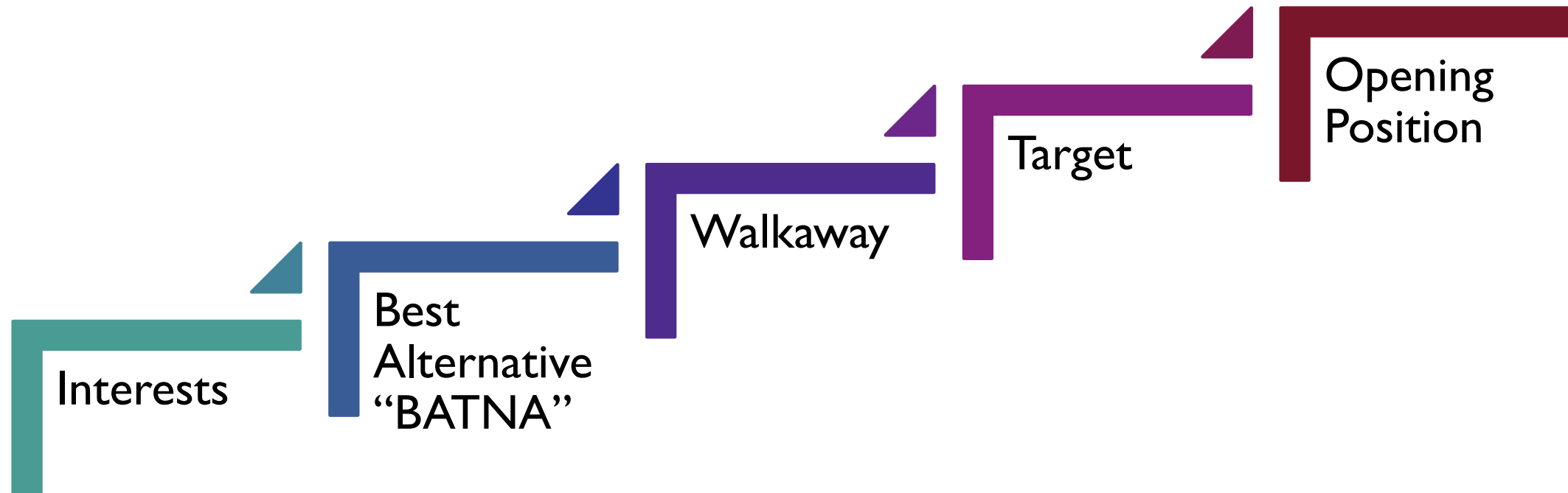


GET THE MOST OUT OF YOUR  
CONTRACTS AND AGREEMENTS



SKILLED NEGOTIATORS CAN  
SAVE COSTS AND REDUCE RISK

# FIVE STEPS TO TAKE BEFORE ENTERING NEGOTIATIONS

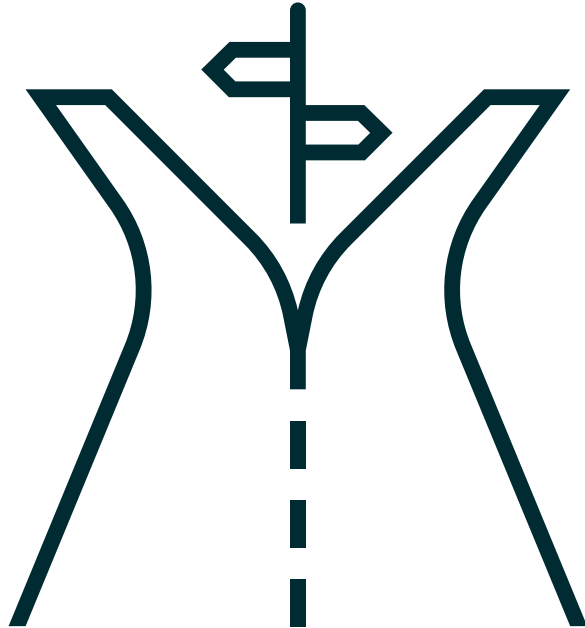


# ESTABLISH THE INTERESTS



- Identify the “WHY” of your interests and goals
- Personal or organizational interest/liability
- Consider the interests of the other side
- Obtain information, play detective, or put yourself in their shoes

# BATNA: BEST ALTERNATIVE TO NEGOTIATED AGREEMENT



- What is your best option if negotiations fail?
- Consider bargaining power
- List of alternatives



# WHAT IS YOUR WALKAWAY?



- Establish your reservation point
- How or when do you determine this point?

# ESTABLISH YOUR TARGET



- How to determine?
  - Compare your BATNA with your goals and your objectives
- Write it down
- Understand power dynamics
  - Ex: Contracts of adhesion

# PREPARE YOUR OPENING POSITION



- Who should start the negotiation?  
How?
- Consider the following strategies:
  - Anchoring
  - Foot in the door
  - Door in the face
  - Set a positive tone
  - Body language



# SKILLS TO IMPLEMENT DURING NEGOTIATIONS

# NEVER SAY YES TO THE FIRST OFFER

[HTTPS://YOUTU.BE/R-GFMH0EK9Y](https://youtu.be/R-GFMH0EK9Y)

The Michael Scott Method of Negotiation - The Office >  
The Office

0:00 / 5:09

Subtitles/CC turned on

More Videos  
Tap to see all

NICHAN'S BEST SALLS

The video player shows a scene from 'The Office' with three men in a meeting. The interface includes standard YouTube controls: play/pause, previous/next, volume, and a progress bar. A 'More Videos' section is visible at the bottom right, featuring a thumbnail for 'NICHAN'S BEST SALLS'.

# “LEAD” YOUR NEGOTIATIONS

**Leverage**

Identify and use leverage

**Explain**

Be prepared to explain why you are requesting certain items

**Ask**

Ask questions and use “what if” statements

**Direct**

Direct attention to concession you made (trade, don't concede)

## REMEMBER: EVERYTHING IS NEGOTIABLE

Understand “boilerplate” provisions that can be game changers



Just because provisions are common, doesn't mean they cannot be changed



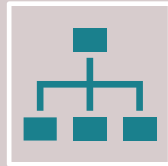
Consider: arbitration clauses, attorney's fees, liquidated damages

## FLIP THE SCRIPT



*The Nibble*: “Why not throw in the shirt with the suit.”

Example response: “I’m sorry I can’t do that.”



*Higher Authority*: “I’ll have to ask my boss.”

Example response: “When can I speak with your boss?”



*Good Guy, Bad Guy*: “He really wants the price to be a dollar, but I’m willing to give it to you for ninety cents.”

Example response: “I know fifty cents is a fair price.”



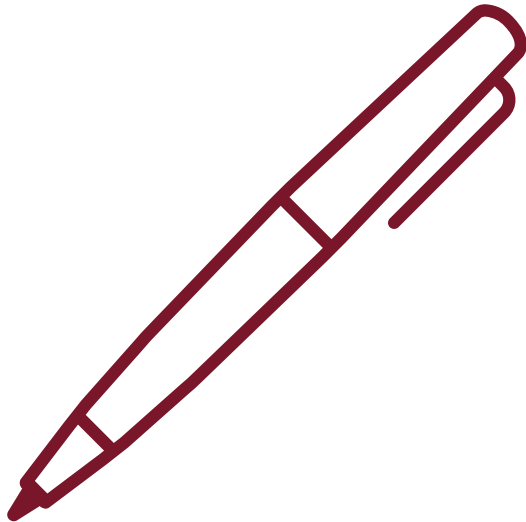
# IDENTIFY ALL POTENTIAL OUTCOMES



- Before you reach a final agreement, make a list of potential problems and “test” how the agreement would treat them
  - Ex. force majeure, dispute resolution, non-compete
- Understand all provisions
  - Ex. choice of law, forum selection, indemnification, integration
- If it is important, put it in the contract
  - Ex. define relationship (EE vs. IC)

# GET IT IN WRITING

- Beware of:
  - “We’ll work this out later”
  - “I know it says x, but don’t worry, we both know it means y”
  - “Parol evidence” rule
  - Letters of intent, memorandum of understanding, agreements to agree



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# POLLING QUESTION

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- What does BATNA stand for?
    - A. Best Alternative to New Action
    - B. Best Alternative to Negotiated Agreement
    - C. Best Agreement to Never Agree
    - D. Best Airline to North America

# NEGOTIATIONS EXERCISE

- Remember your steps:
  - Interests, BATNA, Walkaway, Target, Opening Position
- “LEAD” your negotiations



### **Partner 1 – Prospective Employee - Dr. Jane**

- Graduated top of class & licensed physician assistant
- Aced interview with Hilton Head Rheumatology, and now discussing terms
- Hoping for salary of \$175,000, but you'd probably settle for as little as \$99,000
- Pending offer from another practice group for \$125,000, but 2-hour commute and this is only 10 min and in prime location
- Prior supervisor criticized your “lack of bedside manner” & don't know whether your prospective employer contacted for reference
- A couple things you noticed in the sample contract that you would like to negotiate besides salary:
  - You would like more vacation time. Currently you only get 1 paid week of vacation, you would like 2-3 weeks.
  - The contract requires 6 months' notice prior to terminating, you would like to bring it down to at least 2 months

### **Partner 2 – Employer – Hilton Head Rheumatology**

- Head of Hilton Head Rheumatology – booming practice, prime location
- Recently interviewed Dr. Jane, graduated top of class, highly sought after candidate – today you will negotiate her salary
- You are desperate to hire, more clients than you can service and employees leaving to join competitor
- You can afford to pay Dr. Jane as much as \$225,000 but expecting to hire someone for \$175,000
- Currently have 4 more junior physician assistants on staff making \$125,000
- If you could hire her for less than \$100,000, you could afford to do the office renovation you have been really wanting
- The contract currently requires 6 months' notice prior to terminating. You got this provision from an online contract form. While you like the provision, it isn't a deal breaker.

# QUESTIONS? (5 MINS)



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# REFERENCES

- Kramer, Game, Set, Match: Winning the Negotiations Game 115 (2001).
- Fisher, Negotiating Power, 27 American Behavioral Scientist 2, 156–57 (1983).
- Misino, Negotiate and Win: Proven Strategies from the NYPD's Top Hostage Negotiator 41 (2004).
- Reck & Long, The Win-Win Negotiator: How to Negotiate Favorable Agreements That Last 27 (1987).