

# You Have the Degree...

## Now, is it Associate, Partner, or Owner?



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**A**s you walk off of the stage, your hand still clutching the document that you have spent your entire adult life pursuing, it hits you: “Now what?”

In far too many dental schools across America the “after life” is not discussed, or is rushed through because of other curriculum requirements. This is unfortunate because far too many young dentists make egregious mistakes that compromise the full potential of their careers simply because they didn’t know better. This article provides information that will help you to avoid pitfalls during your career, whether in an associate position, entering into a partnership, or acquiring a practice.

### ASSOCIATESHIPS

In a perfect world, you wouldn’t desperately need a job as a dentist to pay off your massive student loan debt, which would afford you the ability to negotiate every provision in an associate agreement. However, chances are you are kicking yourself for ordering pizza for the last three-to-four years because “my loans can pay for it.” Therefore, we need to focus on a few main points:

- **Compensation** - Many owners will attempt to negatively influence your compensation in two main ways. First, they will make you an “independent contractor” rather than an “employee.” This affects you negatively because you do not get to participate in any employee benefit programs (ie, health benefits, 401k) and you pay more in taxes because you will pay a “self employment” tax. Secondly, owners will try to compensate you based upon “collections” rather than your “production.” The problem with this is you are now bound to how good the office is at collecting money from patients, something that you have no control over!
- **Restrictive Covenants** - In some states, covenants not to compete are unenforceable against associates *after* the contract has been terminated; however, in all states they are enforceable during the *duration* of the contract. If you plan on staying in the area and you live in a state that allows covenants not to compete after the

contract is terminated, then focus on negotiating one of these restrictions but not both.

- **Potential Buy-in** - This must be negotiated in connection with the associate agreement, not after you have been there for a year. Your right to acquire needs to be addressed in the document, otherwise it is merely an idea. The formula for the buy-in should be clearly spelled out in the document so there is no confusion later, and, if possible, the purchase agreement and partnership agreement should be agreed upon as well.

### PARTNERSHIPS

Far too many companies nationwide have jumped on the partnership bandwagon. Due to the complexity of a partnership, many companies have successfully created a “perception of value” seemingly based upon the more confusion they can create! The problem with this approach is that it interferes with the proper formation of the partnership structure.

A partnership strategy is not complex, it is simply two parties coming together to allow for a greater return for each individual doctor. The complexity lies in whether these two parties are compatible, both in their personal and professional lives. Just because one doctor wants to spend more time with her children and the other wants more time practicing does not mean they are a good fit for a partnership! Questions involving patient care, treatment philosophy, career goals, family stability, if there has been a previous divorce, plans for additional children, retirement, etc. all need to be addressed prior to forming a partnership. Even if the parties find they are compatible, the partner-

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## What's on Your Mind?

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Recent attempts to expand the Alaska Dental Health Aide Therapist (DHAT) program provides a perfect example of that distinction. Some parties throw around vague terms like “access to care” and “mid-level provider” to justify replacing properly educated dentists with individuals participating in a two-year community college level education right after

high school. Nobody wants to deny “access to care,” so we cede the terminology, and with it, jeopardize the profession and the health of those who rely on us.

When you ask someone, for example, to define “access to care” and address a specific problem related to “access to care,” the dialogue radically changes. The conversation switches from vague platitudes to actual constructive discussion of the problem at hand. If those who care about the profession of dentistry do

not take ownership of that dialogue, then those who don't care about the profession will. When you consider that new dentists are likely hoping to practice another 25-30 years, preserving the quality of dentistry is clearly the most important challenge we face today. **tND**

to be addressed to assure the proper formation of a partnership structure. In short, no two partnerships are alike.

Also, the doctor who is buying in should not have to wait three-to-five-years to move forward with the acquisition of the partnership interest, a model used by some companies. This unjustifiably places the young doctor in a position where s/he can be terminated at the very moment s/he is to buy into the practice. If you have met with this model, you must secure your future by locking in your *right* to acquire the practice in three-to-five years. Otherwise there

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ship document itself must fit the unique nature, skill set, and personality of the practice. Questions regarding new patients, compensation structures, discrepancies in production figures as well as many other issues need

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is an actual economic benefit to the owner doctor if s/he terminates you the closer you get to acquiring the partnership interest. The practice value is typically determined prior to the associate's compensation being added to the practice. Therefore, as you approach your acquisition, practice production may have increased 50-100%. But, in the owner's eyes, the practice is now selling for less than it is worth. Consequently, many transactions are terminated during the year the associate was supposed to become an owner.

### **PRACTICE ACQUISITIONS**

First and foremost, be objective when evaluating a practice that you are considering acquiring. If you become emotionally attached to a practice, you will find yourself making decisions based upon emotions, rather than logic. Be methodical in your approach. Our firm typically recommends staying away from sellers who are attempting to sell their practices on their own for three reasons: 1) owners are unrealistic about what their practices are worth, 2) there is a much higher cost associated with a for-sale-

by-owner (FSBO) transaction, and 3) the likelihood of the transaction falling apart is much greater in FSBO transactions. As such, we recommend looking at practices that are being sold by reputable dental brokers, with extensive experience in the local marketplace. However, as the buyer, you must always remember that the broker's true client is the seller, not you, even with companies claiming to provide "dual agency."

The following are a few key points to consider when acquiring a dental practice:

- *Practice Production* - If your personal monthly expenses are relatively high, you cannot search for a small practice with "room to grow." You need to find a practice that will allow you to pay your practice expenses, service your debt, and still provide you with enough money to pay your monthly expenses and save. Do not focus on the purchase price or the monthly loan amount when searching for practices, instead focus on the profitability and the salary you should receive after you pay your bills. Does this practice provide you with income needed to match your lifestyle?
- *Dental Procedures* - Are you skilled in the procedures performed by the owner at the practice? If not, this practice is not for you. Our most successful clients find a practice where they can do all of the procedures the current owner does but also have additional training to provide added services to the dental practice, thus allowing the buyer to increase the per patient revenue of the practice.
- *Lease* - Far too many dentists never have their leases reviewed by a dental attorney. As such, there are far too many provisions lurking in a "standard" lease that can be used against the future saleability/transferability of the dental practice you are attempting to acquire. Deal with these issues *before* acquiring the practice. That way, the owner's problem will not become yours.
- *Practice Systems* - Invest in a knowledgeable practice management consultant to evaluate the existing practice systems. These advisors can provide valuable feedback that will allow you to maximize your internal marketing, streamline your practice procedures and increase the productivity of your employees. They can also assess if your philosophy

matches the owner's, thus preventing a patient exodus after you acquire the dental practice.

- *Purchase Agreement* - As shocking as this may sound, your colleagues do not always have your best interests at heart. Thus, you need to protect yourself and the investment you are about to make with a strong, enforceable purchase agreement. You need multiple restrictive covenants that prevent the owner from raiding your patients and employees and protect you from the owner competing against you. You need a myriad of representations and warranties that the owner must stand behind, such as: Did the owner waive co-payments? Has the owner accelerated treatment prior to the closing date? Provisions regarding retreatment work and uncompleted dental work need to be properly addressed to avoid patient confusion and frustration after the sale. All of these issues, as well as a host of others, are what protect you after the sale.

As you can see, your career will not just be about the clinical decisions you make. Key milestones will be in areas where, as a profession, dentists have been ill-equipped. Be prepared for each stage in your career and this will allow you to focus on what you have been trained for – dentistry. **END**

